

AMENDED IN ASSEMBLY SEPTEMBER 10, 1997

AMENDED IN ASSEMBLY SEPTEMBER 8, 1997

AMENDED IN ASSEMBLY AUGUST 28, 1997

AMENDED IN ASSEMBLY AUGUST 25, 1997

AMENDED IN ASSEMBLY JULY 8, 1997

AMENDED IN SENATE APRIL 24, 1997

AMENDED IN SENATE APRIL 2, 1997

## **SENATE BILL**

**No. 660**

**Introduced by Senator Sher**

February 25, 1997

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An act to amend Sections 25143, 25160.5, 25165, 25166, 25166.5, 25174, 25174.1, ~~25174.2, 25174.6~~, 25178.1, 25187, 25192, 25201.6, 25201.9, 25204.7, 25205.4, 25205.5, 25205.6, 25205.7, 25205.12, 25205.14, 25205.15, 25205.16, 25205.18, 25205.19, 25207.12, 25209.7, 25221, 25324, 25330, 25330.4, 25336, 25337, 25343, 25351.1, 25354.5, 25360, 25395, 25404.5, and 25416 of, to add Sections 25173.6 and 25173.7 to, to add Article 9.2 (commencing with Section 25206.1) to Chapter 6.5 of Division 20 of, ~~and~~ to repeal Sections 25167, 25187.9, 25205.8, 25205.9, 25340, 25341, 25345, and 25351 of, *to repeal and add Section 25174.2 of, and to repeal, add and repeal, and add Section 25174.6 of*, the Health and Safety Code, and to amend Sections 43053, 43054, and 43101 of, *to add Section 43152.16 to*, and to repeal Section 43055 of, the Revenue and Taxation Code,

relating to hazardous waste and substances, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

SB 660, as amended, Sher. Hazardous waste management: hazardous substance response actions: fees.

(1) Under existing law, the Department of Toxic Substances Control regulates RCRA hazardous waste, which is defined as hazardous waste subject to the federal Resource Conservation and Recovery Act of 1976, and non-RCRA hazardous waste, which is defined as including all other hazardous waste regulated in the state. Existing law provides that the revenues from specified fees and charges imposed upon the management of hazardous waste are deposited in the Hazardous Waste Control Account in the General Fund and the money in that account is available, upon appropriation by the Legislature, to the department for, among other things, hazardous waste management and the implementation of hazardous substance response actions and for state operational costs with respect to the oversight of removal and remedial actions to hazardous substance releases. A violation of the hazardous waste control laws, including the provisions imposing fees, is a crime.

Existing law requires corporations which use, generate, store, or conduct activities in this state related to hazardous materials to pay an annual charge based on the number of employees employed in the state during the previous calendar year. Existing law also requires every generator of hazardous waste to pay an annual generator fee to the State Board of Equalization. Existing law requires the board to assess a fee for hazardous waste facilities applications, variance applications, and permit modifications. Existing law also imposes a fee upon persons requesting the classification of a hazardous waste, upon persons applying for a determination as to whether land should be designated as hazardous waste property or border zone property, and upon the disposal of hazardous waste to land. *Existing law establishes a base rate of \$110 per ton for the disposal of hazardous waste in this state, adjusted as specified, and*



*provides a procedure for determining the hazardous waste disposal fee as a percentage of that base rate.* The revenues from these charges are deposited in the account.

Existing law imposes a generator fee surcharge, the revenues from which may be expended for specified purposes related to hazardous waste source reduction and a manifest fee for each manifest form used by a person, as specified.

Existing law requires the board to assess a specified fee for the costs incurred by the department for its oversight of a preliminary endangerment assessment at a hazardous substance release site. Existing law requires registered hazardous waste transporters to pay a registration fee to the department.

This bill would enact the Environmental Cleanup and Fee Reform Act of 1997.

The bill would create the Toxic Substances Control Account in the General Fund and would require specified funds be deposited in that account, including the charge imposed on corporations handling hazardous materials, which would be administered by the Director of Toxic Substances Control. The bill would authorize the funds deposited in the Toxic Substances Control Account to be appropriated to the department for specified purposes, including, among other things, the administration and implementation of the provisions governing hazardous substance response actions, railroad safety and emergency planning and response, unreimbursed removal and remedial action costs, for allocation to the Office of Environmental Health Hazard Assessment, pursuant to interagency agreements, for the state share required under the federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), for the purchase by the state, or by any local agency with the prior approval of the director, of hazardous substance response equipment and other preparations for response to a release of hazardous substances, for the costs of health effects studies, and for the payment of the principal of, and interest on, bonds sold pursuant to the Johnston-Filante Hazardous Substance Cleanup Bond Act of 1984. The bill would make a statement of legislative intent concerning the

appropriation of funds deposited in the Toxic Substances Control Account.

The bill would revise the fee revenues required to be deposited in the Hazardous Waste Control Account and would delete the use of the funds in that account for purposes related to hazardous substance response actions.

The bill would *delete the base rate for the fee imposed upon the disposal of hazardous waste, until January 1, 2001, and would establish new rates for the disposal of hazardous waste, based upon, among other things, the level of treatment of the hazardous waste, which would be operative until January 1, 2001. The bill would reinstate, on January 1, 2001, the existing law with regard to the base rate and categories of hazardous waste disposal fees, modified as specified. The bill would* revise the base rates for the fee imposed on ~~hazardous waste disposal~~, operators of hazardous waste facilities; and hazardous waste generators.

The bill would delete the registration fee for hazardous waste transporters. The bill would limit the existing manifest fee to manifests used before June 30, 1998, and would require the department to impose a specified manifest fee system after June 30, 1998, that would exclude certain wastes ~~which~~ *that* are recycled. The bill would require the department to expend \$1,000,000, from the manifest fees deposited in the Hazardous Waste Control Account, upon appropriation by the Legislature, in the annual Budget Act, to implement changes in the hazardous waste manifest tracking system and would require the department to annually expend \$800,000, commencing with the 1999–2000 fiscal year, upon appropriation by the Legislature, from the manifest fees deposited in that account, to ~~establish a~~ *encourage* pollution prevention ~~program~~ *measures*. The bill would revise the fee imposed for variance applications and permit modifications. The bill would repeal the generator surcharge.

The bill would increase the amount of the charge paid by certain corporations for hazardous materials management, as specified, thereby imposing a state tax for purposes of Article XIII A of the California Constitution. Since a failure to pay these charges would be a crime, the bill would impose a state-mandated local program by creating new crimes.

The bill would require the revenues from the charges imposed upon corporations to be deposited in the Toxic Substances Control Account and would declare that the fee rates are intended to provide sufficient revenues to fund the purposes of that account. The bill would require the department to make a specified determination regarding the state's obligations under CERCLA and to report that determination. The bill would require the Legislature to specify in the annual Budget Act those pro rata changes to the fee rates that will increase revenues, as specified. The bill would prohibit the Legislature from specifying fee rates in the annual Budget Act that would increase revenues in an amount greater than a specified amount.

The bill would require any person who applies for, or requests, a new hazardous waste facilities permit, including a standardized permit, a hazardous waste facilities permit for postclosure, a class 2 or class 3 permit modification, a permit renewal, a variance, or a waste classification determination, to enter into a written agreement with the department, pursuant to which that person would be required to reimburse the department for the costs incurred by the department in processing the application or responding to the request, except as specified.

The bill would require the department to comply with specified procedures when recovering costs for processing applications, responding to requests, or providing other services, for which the applicant or requester is required to reimburse the department for its direct and indirect costs.

The bill would also make other related changes in the fees and charges levied for hazardous waste management.

(2) Existing law requires the department to establish a program to delegate the authority to enforce the hazardous waste control laws administratively in San Diego County.

This bill would repeal that requirement to establish the program.

(3) Under existing law, the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65), as approved by the voters at the November 4, 1986, general election, 50% of the penalties collected pursuant to the hazardous waste control laws and to that act are required to be deposited in the



Hazardous Substance Account and 25% are required to be used to fund the activities of local health officers.

This bill would instead require 25% of those penalties be paid to the certified unified program agency, the local health officer, or authorized public officer or agency. The bill would declare the intent of the Legislature that these changes further the intent of that act.

(4) Existing law, the Presley-Carpenter-Tanner Hazardous Substance Account Act, requires certain funds to be deposited in the Hazardous Substance Account, including any money transferred, upon appropriation by the Legislature, from the Hazardous Waste Control Account. Under existing law, the funds in the Hazardous Substance Clearing Account are required to be expended to pay the bonds sold pursuant to the Johnston-Filante Hazardous Substance Cleanup Bond Act of 1984. Existing law annually appropriates \$5,000,000 from the Hazardous Waste Control Account to the Hazardous Substance Clearing Account to pay those bonds under a specified circumstance.

The bill would revise the sources of the funds to be deposited in the Hazardous Substance Account, including money transferred from the Toxic Substances Control Account. The bill would instead annually transfer \$5,000,000 from the Hazardous Substance Account to the Hazardous Substance Clearing Account for the payment of the principal and interest for those bonds, under the specified circumstance, thereby making an appropriation.

The bill would require any potentially responsible party at a site, or any person who has notified the department of their intent to undertake removal or remediation at a site, to reimburse the department for the costs incurred by the department for its oversight of any preliminary endangerment assessment at that site, except as specified.

(5) Existing law, the Carpenter-Presley-Tanner Hazardous Substance Account Act, generally provides that the act shall remain in effect only until July 1, 1998, and as of that date is repealed, unless a later enacted statute, which is enacted before July 1, 1998, deletes or extends that date. However, certain provisions of the act, including the Johnston-Filante Hazardous Substance Cleanup Bond Act of



*1984 and related provisions, are not repealed until the date when the bonds issued and sold pursuant to the bond act have been paid and the General Fund reimbursed.*

*Among other things, in addition to the annual appropriation of \$5,000,000 from the Hazardous Substance Clearing Account to pay the principal of, and interest on, bonds issued and sold pursuant to the bond act, as specified above, the act also continuously appropriates \$1,000,000 from the Hazardous Waste Control Account to the department as a reserve account for emergencies, as specified.*

*The act authorizes a person to apply to the State Board of Control for compensation of a loss caused by the release of a hazardous substance, and provides that any person who knowingly gives, or causes to be given, any false information as a part of a claim for compensation is guilty of a misdemeanor.*

*This bill would extend the effective date of the act, except for the provisions that continue until the bonds are paid and the General Fund reimbursed, to January 1, 1999. By extending the duration of provisions of the act, the bill would also extend those continuous appropriations that are subject to the general repeal date, thereby making appropriations. By extending the duration of those provisions of the act, the bill would also extend that misdemeanor provision, thereby imposing a state-mandated program by creating a new crime.*

*(6) The bill would make conforming changes in the provisions authorizing the collection of the fees imposed upon hazardous waste. The bill would require the board to issue refunds for hazardous waste generator fees paid for hazardous waste generated in 1997, if directed to do so by the department, as specified.*

~~(6)~~

*(7) The bill would make a statement of legislative intent concerning the June 2, 1992, transfer of \$20,000,000 from the Superfund Bond Trust Fund to the General Fund pursuant to a specified budget item of the Budget Act of 1991. The bill would transfer from the General Fund to the Superfund Bond Trust Fund, for payment of the principal of, and interest on, the bonds issued and sold pursuant to the bond act, \$3,500,000 on or before August 1, 2000, \$3,300,000 on or before August 1,*

2001, \$3,100,000, on or before August 1, 2002, \$2,900,000 on or before August 1, 2003, and the amount needed to repay the remainder of the funds transferred pursuant to that budget item, plus all interest accrued since the date that the transfer took place, on or before August 1, 2004.

~~(7)~~

(8) The bill would provide that the changes made by the bill would become operative July 1, 1998, except that the changes made by the bill in the provisions imposing the disposal fee, facility fee, generator fee, conditional authorization or exemption and permit-by-rule fee, and the manifest fee, and the repeal of the generator surcharge fee, would be operative January 1, 1998, *or, for certain disposal fees, January 1, 2001*. The bill would specify the application of these changes on the fees due and payable for 1998~~—or~~ 1999, *or 2000*, as specified.

~~(8) This~~

(9) *The* bill would incorporate changes to Section 25143 of the Health and Safety Code proposed by both this bill and AB 1157, which would become operative only if both bills are enacted and this bill is enacted last.

~~This~~

(10) *The* bill would also incorporate changes to Section 25404.5 of the Health and Safety Code proposed by both this bill and AB 1357, which would become operative only if both bills are enacted and this bill is enacted last.

~~(9)~~

(10) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote:  $\frac{2}{3}$ . Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.



*The people of the State of California do enact as follows:*

SECTION 1. This act shall be known, and may be cited, as the Environmental Cleanup and Fee Reform Act of 1997.

SEC. 2. Section 25143 of the Health and Safety Code is amended to read:

25143. (a) The department may grant a variance from one or more of the requirements of this chapter, or the regulations adopted pursuant to this chapter, for the management of a hazardous waste if all of the following conditions apply:

(1) One of the following conditions applies:

(A) The hazardous waste is solely a non-RCRA hazardous waste or the hazardous waste or its management is exempt from, or is not otherwise regulated pursuant to, the federal act.

(B) The requirement from which a variance is being granted is not a requirement of the federal act, or the regulations adopted to implement the federal act.

(C) The department has issued, or is simultaneously issuing, a variance from the federal act for the hazardous waste management pursuant to subdivision (c).

(2) The department makes one of the following findings:

(A) The hazardous waste, the amount of the hazardous waste, or the hazardous waste management activity or management unit is insignificant or unimportant as a potential hazard to human health and safety or to the environment, when managed in accordance with the conditions, limitations, and other requirements specified in the variance.

(B) The requirements, from which a variance is being granted, are insignificant or unimportant in preventing or minimizing a potential hazard to human health and safety or the environment.

(C) The handling, processing, or disposal of the hazardous waste, or the hazardous waste management activity, is regulated by another governmental agency in a manner that ensures it will not pose a substantial

1 present or potential hazard to human health and safety,  
2 and the environment.

3 (D) A requirement imposed by another public agency  
4 provides protection of human health and safety or the  
5 environment equivalent to the protection provided by  
6 the requirement from which the variance is being  
7 granted.

8 (3) The variance is granted in accordance with this  
9 section.

10 (b) (1) The department may grant a variance upon  
11 receipt of a variance application for a site or sites owned  
12 or operated by an individual or business concern. The  
13 individual or business concern submitting the application  
14 for a variance shall submit to the department sufficient  
15 information to enable the department to determine if all  
16 of the conditions required by subdivision (a) are satisfied  
17 for all situations within the scope of the requested  
18 variance.

19 (2) The department may also grant a variance, on its  
20 own initiative, to one or more individuals or business  
21 concerns. If the variance is granted to more than one  
22 individual or business concern, the department, in  
23 granting the variance pursuant to this paragraph, shall  
24 comply with all of the following requirements:

25 (A) The department shall make all of the following  
26 findings, in addition to the findings required pursuant to  
27 paragraph (2) of subdivision (a):

28 (i) That the variance is necessary to address a  
29 temporary situation, or that the variance is needed to  
30 address an ongoing situation pending the adoption of  
31 regulations by the department.

32 (ii) That the variance will not create a substantive  
33 competitive disadvantage for a member or members of  
34 a specific class of facilities. This finding shall be based  
35 upon information available to the department at the time  
36 that the variance is granted.

37 (iii) That there are no reasonably foreseeable  
38 site-specific physical or operating conditions that could  
39 potentially impact the finding made by the department  
40 pursuant to paragraph (2) of subdivision (a). This finding

1 shall be supported by substantial evidence in the record  
2 as a whole, and shall be based upon both of the following:

3 (I) The types of hazardous waste streams, the  
4 estimated amounts of hazardous waste, and the locations  
5 that are affected by the variance. The estimate of the  
6 amounts of hazardous waste that are affected by the  
7 variance shall be based upon information reasonably  
8 available to the department.

9 (II) Due inquiry, with respect to the hazardous waste  
10 streams and management activities affected by the  
11 variance, regarding the potential for mismanagement,  
12 enforcement and site remediation experience, and  
13 proximity to sensitive receptors.

14 (B) The variance shall not be granted for a period of  
15 more than one year. A variance granted pursuant to this  
16 paragraph may be renewed for one additional one-year  
17 period, if the department makes a finding that the  
18 variance has not resulted in harm to human health or  
19 safety or to the environment and that there has been  
20 substantial compliance with the conditions contained in  
21 the variance.

22 (C) The department shall issue a public notice at least  
23 30 days prior to granting the variance to allow an  
24 opportunity for public comment. The public notice shall  
25 be issued in the California Regulatory Register, to the  
26 department's regulatory mailing list, and to all potentially  
27 affected hazardous waste facilities and generators known  
28 to the department. The department shall, upon request,  
29 hold a public meeting prior to granting the variance. In  
30 granting the variance and in making the findings  
31 required by paragraph (2) of subdivision (a) and  
32 subparagraph (A), the department shall consider all  
33 public comments received.

34 (D) The department shall not grant a variance  
35 pursuant to this paragraph from the definition of, or  
36 classification as, a hazardous waste, or from requirements  
37 pertaining to the investigation or remediation of releases  
38 of hazardous waste or constituents.

39 (E) The authority of the department to grant or renew  
40 variances pursuant to this paragraph shall remain in

1 effect only until January 1, 2002, unless a later enacted  
2 statute, which is enacted before January 1, 2002, deletes  
3 or extends that date. This subparagraph shall not be  
4 construed to invalidate any variance granted pursuant to  
5 this paragraph prior to the expiration of the department's  
6 authority.

7 (c) (1) In addition to the variance authorized  
8 pursuant to subdivisions (a) and (b), the department,  
9 after making one of the findings specified in paragraph  
10 (2) of subdivision (a), may also grant a variance from the  
11 requirements of the federal act in accordance with the  
12 provisions of Sections 260.30, 260.31, 260.32, and 260.33 of  
13 Title 40 of the Code of Federal Regulations, or any  
14 successor federal regulations, regarding the issuance of  
15 variances from classification of a material as a solid waste  
16 or variances classifying enclosed devices using controlled  
17 flame combustion as boilers.

18 (2) This subdivision shall take effect on the date that  
19 the department obtains authorization from the  
20 Environmental Protection Agency to implement those  
21 provisions of the federal act that are identified in  
22 paragraph (1).

23 (d) Each variance issued pursuant to this section shall  
24 be issued on a form prescribed by the department and  
25 shall, as applicable, include, but not be limited to, all of the  
26 following:

27 (1) Information identifying the individuals or business  
28 concerns to which the variance applies. This  
29 identification shall be by name, location of the site or sites,  
30 type of hazardous waste generated or managed, or type  
31 of hazardous waste management activity, as applicable.

32 (2) As applicable, a description of the physical  
33 characteristics and chemical composition of the  
34 hazardous waste or the specifications of the hazardous  
35 waste management activity or unit to which the variance  
36 applies.

37 (3) The time period during which the variance is  
38 effective.

1 (4) A specification of the requirements of this chapter  
2 or the regulations adopted pursuant to this chapter from  
3 which the variance is granted.

4 (5) A specification of the conditions, limitations, or  
5 other requirements to which the variance is subject.

6 (e) (1) Variances issued pursuant to this section are  
7 subject to review at the discretion of the department and  
8 may be revoked or modified at any time.

9 (2) The department shall revoke or modify a variance  
10 if the department finds any of the following:

11 (A) The conditions required by this section are no  
12 longer satisfied.

13 (B) The holder of the variance is in violation of one or  
14 more of the conditions, limitations, or other requirements  
15 of the variance, and, as a result of the violation, the  
16 conditions required by this section are no longer satisfied.

17 (C) If the variance was granted because of the finding  
18 specified in subparagraph (C) or (D) of paragraph (2) of  
19 subdivision (a), the holder of the variance is in violation  
20 of one or more of the regulatory requirements of another  
21 governmental agency to which the holder is subject and  
22 the violation invalidates that finding.

23 (f) Within 30 days from the date of granting a variance,  
24 the department shall issue a public notice on the  
25 California Regulatory Register.

26 SEC. 2.5. Section 25143 of the Health and Safety Code  
27 is amended to read:

28 25143. (a) The department may grant a variance  
29 from one or more of the requirements of this chapter, or  
30 the regulations adopted pursuant to this chapter, for the  
31 management of a hazardous waste if all of the following  
32 conditions apply:

33 (1) One of the following conditions applies:

34 (A) The hazardous waste is solely a non-RCRA  
35 hazardous waste or the hazardous waste or its  
36 management is exempt from, or is not otherwise  
37 regulated pursuant to, the federal act.

38 (B) The requirement from which a variance is being  
39 granted is not a requirement of the federal act, or the  
40 regulations adopted to implement the federal act.

1 (C) The department has issued, or is simultaneously  
2 issuing, a variance from the federal act for the hazardous  
3 waste management pursuant to subdivision (c).

4 (2) The department makes one of the following  
5 findings:

6 (A) The hazardous waste, the amount of the  
7 hazardous waste, or the hazardous waste management  
8 activity or management unit is insignificant or  
9 unimportant as a potential hazard to human health and  
10 safety or to the environment, when managed in  
11 accordance with the conditions, limitations, and other  
12 requirements specified in the variance.

13 (B) The requirements, from which a variance is being  
14 granted, are insignificant or unimportant in preventing  
15 or minimizing a potential hazard to human health and  
16 safety or the environment.

17 (C) The handling, processing, or disposal of the  
18 hazardous waste, or the hazardous waste management  
19 activity, is regulated by another governmental agency in  
20 a manner that ensures it will not pose a substantial  
21 present or potential hazard to human health and safety,  
22 and the environment.

23 (D) A requirement imposed by another public agency  
24 provides protection of human health and safety or the  
25 environment equivalent to the protection provided by  
26 the requirement from which the variance is being  
27 granted.

28 (3) The variance is granted in accordance with this  
29 section.

30 (b) (1) The department may grant a variance upon  
31 receipt of a variance application for a site or sites owned  
32 or operated by an individual or business concern. The  
33 individual or business concern submitting the application  
34 for a variance shall submit to the department sufficient  
35 information to enable the department to determine if all  
36 of the conditions required by subdivision (a) are satisfied  
37 for all situations within the scope of the requested  
38 variance.

39 (2) On or before January 1, 2002, the department may  
40 also grant a variance, on its own initiative, to one or more

1 individuals or business concerns. If the variance is  
2 granted to more than one individual or business concern,  
3 the department, in granting the variance pursuant to this  
4 paragraph, shall comply with all of the following  
5 requirements:

6 (A) The department shall make all of the following  
7 findings, in addition to the findings required pursuant to  
8 paragraph (2) of subdivision (a):

9 (i) The variance is necessary to address a temporary  
10 situation, or that the variance is needed to address an  
11 ongoing situation pending the adoption of regulations by  
12 the department.

13 (ii) The variance will not create a substantive  
14 competitive disadvantage for a member or members of  
15 a specific class of facilities. This finding shall be based  
16 upon information available to the department at the time  
17 that the variance is granted.

18 (iii) There are no reasonably foreseeable site-specific  
19 physical or operating conditions that could potentially  
20 impact the finding made by the department pursuant to  
21 paragraph (2) of subdivision (a). This finding shall be  
22 supported by substantial evidence in the record as a  
23 whole, and shall be based upon both of the following:

24 (I) The types of hazardous waste streams, the  
25 estimated amounts of hazardous waste, and the locations  
26 that are affected by the variance. The estimate of the  
27 amounts of hazardous waste that are affected by the  
28 variance shall be based upon information reasonably  
29 available to the department.

30 (II) Due inquiry, with respect to the hazardous waste  
31 streams and management activities affected by the  
32 variance, regarding the potential for mismanagement,  
33 enforcement and site remediation experience, and  
34 proximity to sensitive receptors.

35 (B) The variance shall not be granted for a period of  
36 more than one year. A variance granted pursuant to this  
37 paragraph may be renewed for one additional one-year  
38 period, if the department makes a finding that the  
39 variance has not resulted in harm to human health or  
40 safety or to the environment and that there has been

1 substantial compliance with the conditions contained in  
2 the variance.

3 (C) The department shall issue a public notice at least  
4 30 days prior to granting the variance to allow an  
5 opportunity for public comment. The public notice shall  
6 be issued in the California Regulatory Register, to the  
7 department's regulatory mailing list, and to all potentially  
8 affected hazardous waste facilities and generators known  
9 to the department. The department shall, upon request,  
10 hold a public meeting prior to granting the variance. In  
11 granting the variance and in making the findings  
12 required by paragraph (2) of subdivision (a) and  
13 subparagraph (A), the department shall consider all  
14 public comments received.

15 (D) The department shall not grant a variance  
16 pursuant to this paragraph from the definition of, or  
17 classification as, a hazardous waste, or from requirements  
18 pertaining to the investigation or remediation of releases  
19 of hazardous waste or constituents.

20 (E) The department may grant or renew variances  
21 pursuant to this paragraph only until January 1, 2002,  
22 unless a later enacted statute, which is enacted before  
23 January 1, 2002, deletes or extends that date. This  
24 subparagraph shall not be construed to invalidate any  
25 variance granted pursuant to this paragraph prior to the  
26 expiration of the department's authority.

27 (c) (1) In addition to the variance authorized  
28 pursuant to subdivisions (a) and (b), the department,  
29 after making one of the findings specified in paragraph  
30 (2) of subdivision (a), may also grant a variance from the  
31 requirements of the federal act in accordance with the  
32 provisions of Sections 260.30, 260.31, 260.32, and 260.33 of  
33 Title 40 of the Code of Federal Regulations, or any  
34 successor federal regulations, regarding the issuance of  
35 variances from classification of a material as a solid waste  
36 or variances classifying enclosed devices using controlled  
37 flame combustion as boilers.

38 (2) This subdivision shall become operative on the  
39 date that the department obtains authorization from the  
40 Environmental Protection Agency to implement those



1 provisions of the federal act that are identified in  
2 paragraph (1).

3 (d) Each variance issued pursuant to this section shall  
4 be issued on a form prescribed by the department and  
5 shall, as applicable, include, but not be limited to, all of the  
6 following:

7 (1) Information identifying the individuals or business  
8 concerns to which the variance applies. This  
9 identification shall be by name, location of the site or sites,  
10 type of hazardous waste generated or managed, or type  
11 of hazardous waste management activity, as applicable.

12 (2) As applicable, a description of the physical  
13 characteristics and chemical composition of the  
14 hazardous waste or the specifications of the hazardous  
15 waste management activity or unit to which the variance  
16 applies.

17 (3) The time period during which the variance is  
18 effective.

19 (4) A specification of the requirements of this chapter  
20 or the regulations adopted pursuant to this chapter from  
21 which the variance is granted.

22 (5) A specification of the conditions, limitations, or  
23 other requirements to which the variance is subject.

24 (e) (1) Variances issued pursuant to this section are  
25 subject to review at the discretion of the department and  
26 may be revoked or modified at any time.

27 (2) The department shall revoke or modify a variance  
28 if the department finds any of the following:

29 (A) The conditions required by this section are no  
30 longer satisfied.

31 (B) The holder of the variance is in violation of one or  
32 more of the conditions, limitations, or other requirements  
33 of the variance, and, as a result of the violation, the  
34 conditions required by this section are no longer satisfied.

35 (C) If the variance was granted because of the finding  
36 specified in subparagraph (C) or (D) of paragraph (2) of  
37 subdivision (a), the holder of the variance is in violation  
38 of one or more of the regulatory requirements of another  
39 governmental agency to which the holder is subject and  
40 the violation invalidates that finding.

(f) (1) Not less than 30 days immediately preceding the date of granting a variance, the department shall issue a public notice of the proposed granting of the variance in the California Regulatory Notice Register.

(2) Paragraph (1) does not apply to any variance listed in subdivision (g).

(g) Notwithstanding subdivision (f), within 30 days from the date of granting any of the following variances, the department shall issue a public notice of the grant of the variance in the California Regulatory Notice Register:

(1) Variances immediately required in cases of emergency to protect human health or the environment.

(2) Regulatory variances granted for certain transportation operations in accordance with Article 4 (commencing with Section 66263.40) of Chapter 13 of Division 4.5 of Title 22, of the California Code of Regulations, in existence on July 1, 1997, which do not require a discretionary decision to be made by the department.

(3) Variances granted in conjunction with, or to facilitate, household or agricultural hazardous waste collection activities operated by a public agency or by a contractor operating on behalf of the public agency, if the public agency or contractor has not violated this chapter in the three years prior to applying for the variance.

SEC. 3. Section 25160.5 of the Health and Safety Code is amended to read:

25160.5. If any person submits an incomplete or improperly completed manifest, and the department returns the manifest to the person who completed or submitted the manifest, the person to whom it was returned shall, within 30 days from the date of receipt of the returned manifest, submit a fee of twenty dollars (\$20) to the department to accompany the resubmitted manifest. The department shall deposit the fees collected pursuant to this section into the Hazardous Waste Control Account, for expenditure by the department, upon appropriation by the Legislature.

SEC. 4. Section 25165 of the Health and Safety Code is amended to read:

1 25165. (a) A hazardous waste transporter's  
2 application for original and renewal registration shall be  
3 on a form provided by the department.

4 (b) Any application for registration under this section  
5 shall be filed with the department.

6 SEC. 5. Section 25166 of the Health and Safety Code  
7 is amended to read:

8 25166. (a) A person who is registered as a hazardous  
9 waste transporter may voluntarily surrender a  
10 registration by submitting a letter signed and dated by  
11 the registered hazardous waste transporter indicating  
12 that the transporter no longer wishes to transport  
13 hazardous waste.

14 (b) A person whose registration has expired for a  
15 period of more than 90 days shall be considered an  
16 applicant for an original registration when the person  
17 applies for registration.

18 SEC. 6. Section 25166.5 of the Health and Safety Code  
19 is amended to read:

20 25166.5. Notwithstanding any other provision of law,  
21 the department may, by regulation, provide for the  
22 issuance and renewal of a hazardous waste transporter  
23 registration on a two-year basis.

24 SEC. 7. Section 25167 of the Health and Safety Code  
25 is repealed.

26 SEC. 8. Section 25173.6 is added to the Health and  
27 Safety Code, to read:

28 25173.6. (a) There is in the General Fund the Toxic  
29 Substances Control Account, which shall be administered  
30 by the director. In addition to any other money that may  
31 be appropriated by the Legislature to the Toxic  
32 Substances Control Account, all of the following shall be  
33 deposited in the account:

34 (1) The fees collected pursuant to Section 25205.6.

35 (2) The fees collected pursuant to Section 25187.2, to  
36 the extent that those fees are for oversight of a removal  
37 or remedial action taken under Chapter 6.8  
38 (commencing with Section 25300) or Chapter 6.85  
39 (commencing with Section 25396).

1 (3) Any fines or penalties collected pursuant to this  
2 chapter, Chapter 6.8 (commencing with Section 25300)  
3 or Chapter 6.85 (commencing with Section 25396),  
4 except as directed otherwise by Section 25192.

5 (4) Any interest earned upon money deposited in the  
6 Toxic Substances Control Account.

7 (5) All money recovered pursuant to Section 25360,  
8 except recoveries of amounts paid from the Hazardous  
9 Substance Cleanup Fund.

10 (6) All money recovered pursuant to Section 25380.

11 (7) Any reimbursements for funds expended from the  
12 Toxic Substances Control Account for services provided  
13 by the department, including, but not limited to,  
14 reimbursements required pursuant to Sections 25201.9  
15 and 25343.

16 (8) Any money received from the federal government  
17 pursuant to the federal Comprehensive Environmental  
18 Response, Compensation, and Liability Act of 1980, as  
19 amended (42 U.S.C. Sec. 9601, et seq.).

20 (9) Any money received from responsible parties for  
21 remedial action or removal at a specific site, except as  
22 otherwise provided by law.

23 (b) The funds deposited in the Toxic Substances  
24 Control Account may be appropriated to the department  
25 for the following purposes:

26 (1) The administration and implementation of the  
27 following:

28 (A) Chapter 6.8 (commencing with Section 25300),  
29 except that no funds may be expended from the Toxic  
30 Substances Control Account for purposes of Section  
31 25354.5.

32 (B) Chapter 6.85 (commencing with Section 25396).

33 (C) Chapter 6.11 (commencing with Section 25404).

34 (D) Article 10 (commencing with Section 7710) of  
35 Chapter 1 of Division 4 of the Public Utilities Code, to the  
36 extent the department has been delegated  
37 responsibilities by the secretary for implementing that  
38 article.

39 (2) The administration of the following units within  
40 the department:

1 (A) The Human and Ecological Risk Division.

2 (B) The Hazardous Materials Laboratory.

3 (C) The Office of Pollution Prevention and  
4 Technology Development.

5 (3) For allocation to the Office of Environmental  
6 Health Hazard Assessment, pursuant to an interagency  
7 agreement, to assist the department as needed in  
8 administering the programs described in subparagraphs  
9 (A) and (B) of paragraph (1).

10 (4) For allocation to the State Board of Equalization to  
11 pay refunds of fees collected pursuant to Section 43054 of  
12 the Revenue and Taxation Code.

13 (5) For the state share mandated pursuant to  
14 paragraph (3) of subsection (c) of Section 104 of the  
15 federal Comprehensive Environmental Response,  
16 Compensation, and Liability Act of 1980, as amended (42  
17 U.S.C. Sec. 9404(c)(3)).

18 (6) For the purchase by the state, or by any local  
19 agency with the prior approval of the director, of  
20 hazardous substance response equipment and other  
21 preparations for response to a release of hazardous  
22 substances. However, all equipment shall be purchased in  
23 a cost-effective manner after consideration of the  
24 adequacy of existing equipment owned by the state or the  
25 local agency, and the availability of equipment owned by  
26 private contractors.

27 (7) For payment of all costs of removal and remedial  
28 action incurred by the state, or by any local agency with  
29 the approval of the director, in response to a release or  
30 threatened release of a hazardous substance, to the extent  
31 the costs are not reimbursed by the federal  
32 Comprehensive Environmental Response,  
33 Compensation, and Liability Act of 1980, as amended (42  
34 U.S.C. Sec. 9601, et seq.).

35 (8) For payment of all costs of actions taken pursuant  
36 to subdivision (b) of Section 25358.3, to the extent that  
37 these costs are not paid by the federal Comprehensive  
38 Environmental Response, Compensation, and Liability  
39 Act of 1980, as amended (42 U.S.C. Sec. 9601, et seq.).

1 (9) For all costs incurred by the department in  
2 cooperation with the Agency for Toxic Substances and  
3 Disease Registry established pursuant to subsection (i) of  
4 Section 104 of the federal Comprehensive  
5 Environmental Response, Compensation, and Liability  
6 Act of 1980, as amended (42 U.S.C. Sec. 9604(i)) and all  
7 costs of health effects studies undertaken regarding  
8 specific sites or specific substances at specific sites. Funds  
9 appropriated for this purpose shall not exceed five  
10 hundred thousand dollars (\$500,000) in any single fiscal  
11 year. However, these actions shall not duplicate  
12 reasonably available federal actions and studies.

13 (10) For repayment of the principal of, and interest  
14 on, bonds sold pursuant to Article 7.5 (commencing with  
15 Section 25385).

16 (11) For the reasonable and necessary administrative  
17 costs and expenses of the Hazardous Substance Cleanup  
18 Arbitration Panel created pursuant to Section 25356.2.

19 (12) Direct site remediation costs.

20 (13) For the department's expenses for staff to  
21 perform oversight of investigations, characterizations,  
22 removals, remediations, or long-term operation and  
23 maintenance.

24 (14) For the administration and collection of the fees  
25 imposed pursuant to Section 25205.6.

26 (c) The funds deposited in the Toxic Substances  
27 Control Account may be appropriated by the Legislature  
28 to the office of the Attorney General for the support of the  
29 Toxic Substance Enforcement Program in the office of  
30 the Attorney General, in carrying out the purposes of  
31 Chapter 6.8 (commencing with Section 25300) and  
32 Chapter 6.85 (commencing with Section 25396).  
33 Expenditures for the purposes of this subdivision are not  
34 subject to an interagency or interdepartmental  
35 agreement.

36 (d) The director shall expend federal funds in the  
37 Toxic Substances Control Account consistent with the  
38 requirements specified in Section 114 of the federal  
39 Comprehensive Environmental Response,  
40 Compensation, and Liability Act of 1980, as amended (42

1 U.S.C. Sec. 9601), upon appropriation by the Legislature,  
2 for the purposes for which they were provided to the  
3 state.

4 (e) Money in the Toxic Substances Control Account  
5 shall not be expended to conduct removal or remedial  
6 actions if any significant portion of the hazardous  
7 substances to be removed or remedied originated from a  
8 source outside the state.

9 (f) The Director of Finance, upon request of the  
10 director, may make a loan from the General Fund to the  
11 Toxic Substances Control Account to meet cash needs.  
12 The loan shall be subject to the repayment provisions of  
13 Section 16351 of the Government Code and the interest  
14 provisions of Section 16314 of the Government Code.

15 SEC. 8.5. Section 25173.7 is added to the Health and  
16 Safety Code, to read:

17 25173.7. (a) It is the intent of the Legislature that  
18 funds deposited in the Toxic Substances Control Account  
19 shall be appropriated in the annual Budget Act each year  
20 in the following manner:

21 (1) Not less than six million seven hundred fifty  
22 thousand dollars (\$6,750,000) to the Site Remediation  
23 Account in the General Fund for direct site remediation  
24 costs, as defined in Section 25337. The amount specified  
25 in this paragraph shall be increased in any fiscal year by  
26 the amount of increased revenues specified by the  
27 Legislature in the Budget Act for that fiscal year pursuant  
28 to subdivision (f) of Section 25205.6.

29 (2) Not less than four hundred thousand dollars  
30 (\$400,000) to the Expedited Site Remediation Trust Fund  
31 in the State Treasury, created pursuant to subdivision (a)  
32 of Section 25399.1, for purposes of paying the orphan  
33 share of response costs pursuant to Chapter 6.85  
34 (commencing with Section 25396).

35 (3) Eight million dollars (\$8,000,000) for purposes of  
36 the administration of the units of the department  
37 specified in paragraph (2) of subdivision (b) of Section  
38 25173.6.

39 (4) Not more than one million two hundred thousand  
40 dollars (\$1,200,000) for purposes of implementing the

1 unified hazardous waste and hazardous materials  
2 regulatory program established pursuant to Chapter 6.11  
3 (commencing with Section 25404).

4 (5) Not more than five hundred thousand dollars  
5 (\$500,000) for purposes of the administration and  
6 collection of the fees specified in paragraph (14) of  
7 subdivision (b) of Section 25173.6.

8 (6) Funds not appropriated as specified in paragraphs  
9 (1) to (5), inclusive, may be appropriated for any of the  
10 purposes specified in subdivision (b) of Section 25173.6,  
11 except the purposes specified in subparagraph (C) of  
12 paragraph (1) of, and paragraph (14) of, subdivision (b)  
13 of Section 25173.6.

14 (b) The amounts specified in paragraphs (1) to (5),  
15 inclusive, of subdivision (a) are the amounts that the  
16 Legislature intends to appropriate for the 1998–99 fiscal  
17 year. Beginning with the 1999–2000 fiscal year, and for  
18 each fiscal year thereafter, the amounts shall be adjusted  
19 annually to reflect increases or decreases in the cost of  
20 living during the prior fiscal year, as measured by the  
21 Consumer Price Index issued by the Department of  
22 Industrial Relations or by a successor agency.

23 SEC. 9. Section 25174 of the Health and Safety Code  
24 is amended to read:

25 25174. (a) There is in the General Fund the  
26 Hazardous Waste Control Account, which shall be  
27 administered by the director. In addition to any other  
28 money that may be deposited in the Hazardous Waste  
29 Control Account, pursuant to statute, all of the following  
30 amounts shall be deposited in the account:

31 (1) The fees collected pursuant to Sections 25174.1,  
32 25205.2, 25205.5, 25205.15, and 25205.16.

33 (2) The fees collected pursuant to Section 25187.2, to  
34 the extent that those fees are for the oversight of  
35 corrective action taken under this chapter.

36 (3) Any interest earned upon the money deposited in  
37 the Hazardous Waste Control Account.

38 (4) Any money received from the federal government  
39 pursuant to the federal act.



1 (5) Any reimbursements for funds expended from the  
2 Hazardous Waste Control Account for services provided  
3 by the department pursuant to this chapter, including,  
4 but not limited to, the reimbursements required  
5 pursuant to Sections 25201.9 and 25205.7.

6 (b) The funds deposited in the Hazardous Waste  
7 Control Account may be appropriated by the Legislature,  
8 for expenditure as follows:

9 (1) To the department for the administration and  
10 implementation of this chapter.

11 (2) To the department for allocation to the State Board  
12 of Equalization to pay refunds of fees collected pursuant  
13 to Sections 43051 and 43053 of the Revenue and Taxation  
14 Code.

15 (3) To the department for the costs of performance or  
16 review of analyses of past, present, or potential  
17 environmental public health effects related to toxic  
18 substances, including extremely hazardous waste, as  
19 defined in Section 25115, and hazardous waste, as defined  
20 in Section 25117.

21 (4) (A) To the office of the Attorney General for the  
22 support of the Toxic Substance Enforcement Program in  
23 the office of the Attorney General, in carrying out the  
24 purposes of this chapter.

25 (B) Notwithstanding subdivision (c), expenditures for  
26 the purposes of this paragraph shall not be subject to an  
27 interagency or interdepartmental agreement.

28 (C) On or before October 1 of each year, the Attorney  
29 General shall report to the Legislature on the  
30 expenditure of any funds appropriated to the office of the  
31 Attorney General for the preceding fiscal year pursuant  
32 to this paragraph and subdivision (c) of Section 25173.6.  
33 The report shall include all of the following:

34 (i) A description of cases resolved by the office of the  
35 Attorney General through settlement or court order,  
36 including the monetary benefit to the department and  
37 the state.

38 (ii) A description of injunctions or other court orders  
39 benefiting the people of the state.

(iii) A description of any cases in which the Attorney General's Toxic Substance Enforcement Program is representing the department or the state against claims by defendants or responsible parties.

(iv) A description of other pending litigation handled by the Attorney General's Toxic Substance Enforcement Program.

(D) Nothing in subparagraph (C) shall require the Attorney General to report on any confidential or investigatory matter.

(c) Except for the appropriation to the office of the Attorney General pursuant to paragraph (4) of subdivision (b), expenditures from the Hazardous Waste Control Account for support of state agencies other than the department shall, upon appropriation by the Legislature to the department, be subject to an interagency or interdepartmental agreement between the department and the state agency receiving the support.

(d) The department shall, at the time of the release of the annual Governor's Budget, describe the budgetary amounts proposed to be allocated to the State Board of Equalization, as specified in paragraph (2) of subdivision (b) and in paragraph (3) of subdivision (b) of Section 25173.6, for the upcoming fiscal year. With respect to expenditures for the purposes of paragraphs (1) and (3) of subdivision (b) and paragraphs (1) and (2) of subdivision (b) of Section 25173.6, the department shall also make available the budgetary amounts and allocations of staff resources of the department proposed for the following activities:

(1) The department shall identify, with regard to the permitting of hazardous waste facilities, closure plans, and postclosure permits, the projected allocations of budgets and permitting staff resources for all of the following facilities:

(A) Hazardous waste facilities managing RCRA hazardous waste.

(B) Hazardous waste facilities managing non-RCRA hazardous waste.

(C) Facilities under each tier of the hazardous waste permitting system established pursuant to Article 9 (commencing with Section 25200).

(2) The department shall identify, with regard to surveillance and enforcement activities, the projected allocations of budgets and staff resources for the management of RCRA and non-RCRA hazardous waste for all of the following types of regulated facilities and activities:

(A) Hazardous waste facilities by permit tier.

(B) Interim status facilities and operations.

(C) Generators.

(D) Transporters.

(E) Response to complaints.

(3) The department shall identify, with regard to the transportation of hazardous waste, the projected allocations of budgets and staff resources for both of the following activities:

(A) The regulation of hazardous waste transporters.

(B) The operation and maintenance of the hazardous waste manifest system.

(4) The department shall identify, with regard to site mitigation, corrective action, and remedial and removal actions, the projected allocations of budgets and staff resources for the oversight and implementation of the following activities:

(A) Removal and remedial actions at military bases.

(B) Voluntary removal and remedial actions.

(C) Removal and remedial actions under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. Sec. 9601 et seq.).

(D) Corrective actions at hazardous waste facilities.

(E) Other state removal and remedial actions.

(5) The department shall identify, with regard to the regulation of hazardous waste, the projected allocation of budgets and staff resources for the following activities:

(A) Determinations pertaining to the classification of hazardous wastes.

1 (B) Determinations for variances made pursuant to  
2 Section 25143.

3 (C) Other determinations and responses to public  
4 inquiries made by the department regarding the  
5 regulation of hazardous waste and hazardous substances.

6 (6) The department shall identify projected  
7 allocations of budgets and staff resources needed to  
8 identify, clean up, store, and dispose of, suspected  
9 hazardous substances associated with the investigation of  
10 clandestine drug laboratories and other hazardous  
11 materials spills.

12 (7) The department shall identify projected  
13 allocations of budgets and staff resources that are  
14 necessary for the department to comply with the  
15 California Environmental Quality Act (Division 21  
16 (commencing with Section 21000) of the Public  
17 Resources Code) when making discretionary decisions  
18 pursuant to this chapter.

19 (8) The department shall identify the total cumulative  
20 expenditures of the Regulatory Structure Update and Site  
21 Mitigation Update projects since their inception, and  
22 shall identify the total projected allocations of budgets  
23 and staff resources that are needed to continue these  
24 projects.

25 (9) The department shall identify the total projected  
26 allocations of budgets and staff resources that are  
27 necessary for all other activities proposed to be  
28 conducted by the department.

29 (e) Notwithstanding this chapter, or Part 22  
30 (commencing with Section 43001) of Division 2 of the  
31 Revenue and Taxation Code, for any fees, surcharges,  
32 fines, penalties, and funds which are required to be  
33 deposited into the Hazardous Waste Control Account or  
34 the Toxic Substances Control Account, the department,  
35 with the approval of the Secretary for Environmental  
36 Protection, may take any of the following actions:

37 (1) Assume responsibility for, or enter into a contract  
38 with a private party or with another public agency, other  
39 than the State Board of Equalization, for the collection of  
40 any fees, surcharges, fines, penalties and funds described

1 in subdivision (a) or otherwise described in this chapter  
2 or Chapter 6.8 (commencing with Section 25300), for  
3 deposit into the Hazardous Waste Control Account or the  
4 Toxic Substances Control Account.

5 (2) Administer, or by mutual agreement, contract  
6 with a private party or another public agency, for the  
7 making of those determinations and the performance of  
8 functions that would otherwise be the responsibility of  
9 the State Board of Equalization pursuant to this chapter,  
10 Chapter 6.8 (commencing with Section 25300), or Part 22  
11 (commencing with Section 43001) of Division 2 of the  
12 Revenue and Taxation Code, if those activities and  
13 functions for which the State Board of Equalization would  
14 otherwise be responsible become the responsibility of the  
15 department or, by mutual agreement, the contractor  
16 selected by the department.

17 (f) If, pursuant to subdivision (e), the department, or  
18 a private party or another public agency, pursuant to a  
19 contract with the department, performs the  
20 determinations and functions that would otherwise be  
21 the responsibility of the State Board of Equalization, the  
22 department shall be responsible for ensuring that persons  
23 who are subject to the fees specified in subdivision (e)  
24 have equivalent rights to public notice and comment, and  
25 procedural and substantive rights of appeal, as afforded  
26 by the procedures of the State Board of Equalization  
27 pursuant to Part 22 (commencing with Section 43001) of  
28 Division 2 of the Revenue and Taxation Code. Final  
29 responsibility for the administrative adjustment of fee  
30 rates and the administrative appeal of any fees or penalty  
31 assessments made pursuant to this section may only be  
32 assigned by the department to a public agency.

33 (g) If, pursuant to subdivision (e), the department, or  
34 a private party or another public agency, pursuant to a  
35 contract with the department, performs the  
36 determinations and functions that would otherwise be  
37 the responsibility of the State Board of Equalization, the  
38 department shall have equivalent authority to make  
39 collections and enforce judgments as provided to the  
40 State Board of Equalization pursuant to Part 22

1 (commencing with Section 43001) of Division 2 of the  
2 Revenue and Taxation Code. Unpaid amounts, including  
3 penalties and interest, shall be a perfected and  
4 enforceable state tax lien in accordance with Section  
5 43413 of the Revenue and Taxation Code.

6 (h) The department, with the concurrence of the  
7 Secretary for Environmental Protection, shall determine  
8 which administrative functions should be retained by the  
9 State Board of Equalization, administered by the  
10 department, or assigned to another public agency or  
11 private party pursuant to subdivisions (e), (f), and (g).

12 (i) The department may adopt regulations to  
13 implement subdivisions (e) to (h), inclusive.

14 (j) The Director of Finance, upon request of the  
15 director, may make a loan from the General Fund to the  
16 Hazardous Waste Control Account to meet cash needs.  
17 The loan shall be subject to the repayment provisions of  
18 Section 16351 of the Government Code and the interest  
19 provisions of Section 16314 of the Government Code.

20 (k) *The department shall establish, within the*  
21 *Hazardous Waste Control Account, a reserve of at least*  
22 *one million dollars (\$1,000,000) each year to ensure that*  
23 *all programs funded by the Hazardous Waste Control*  
24 *Account will not be adversely affected by any revenue*  
25 *shortfalls.*

26 SEC. 10. Section 25174.1 of the Health and Safety  
27 Code is amended to read:

28 25174.1. (a) Each person who disposes of hazardous  
29 waste in this state shall pay a fee for the disposal of  
30 hazardous waste to land, based on the type of waste  
31 placed in a disposal site, in accordance with this section  
32 and Section 25174.6.

33 (b) "Disposal fee" means the fee imposed by this  
34 section.

35 (c) For purposes of this section, "dispose" and  
36 "disposal" include "disposal," as defined in Section 25113,  
37 including, but not limited to, "land treatment," as defined  
38 in subdivision (n) of Section 25205.1.

39 (d) Each operator of an authorized hazardous waste  
40 facility, at which hazardous wastes are disposed, shall



1 collect a fee from any person submitting hazardous waste  
2 for disposal and shall transmit the fees to the State Board  
3 of Equalization for the disposal of those wastes. The  
4 operator shall be considered the taxpayer for purposes of  
5 Section 43151 of the Revenue and Taxation Code. The  
6 facility operator is not required to collect and transmit the  
7 fee for a hazardous waste if the operator maintains  
8 written evidence that the hazardous waste is eligible for  
9 the exemption provided by Section 25174.7 or otherwise  
10 exempted from the fees pursuant to this chapter. The  
11 written evidence may be provided by the operator or by  
12 the person submitting the hazardous waste for disposal,  
13 and shall be maintained by the operator at the facility for  
14 a minimum of three years from the date that the waste is  
15 submitted for disposal. If the operator submits the  
16 hazardous waste for disposal, the operator shall pay the  
17 same fee as would any other person.

18 (e) Notwithstanding subdivision (d), the disposal  
19 facility shall not be liable for the underpayment of any  
20 disposal fees for hazardous waste submitted for disposal  
21 by a person other than the operator, if the person  
22 submitting the hazardous waste to the disposal facility has  
23 done either of the following:

24 (1) Mischaracterized the hazardous waste.

25 (2) Misrepresented any exemptions pursuant to  
26 Section 25174.7 or any other exemption from the disposal  
27 fee provided pursuant to this chapter.

28 (f) (1) Any additional payment of disposal fees that  
29 are due to the State Board of Equalization as a result of  
30 a mischaracterization of a hazardous waste, a  
31 misrepresentation of an exemption, or any other error,  
32 shall be the responsibility of the person making the  
33 mischaracterization, misrepresentation, or error.

34 (2) In the event of a dispute regarding the  
35 responsibility for a mischaracterization,  
36 misrepresentation, or other error, for which additional  
37 payment of disposal fees are due, the State Board of  
38 Equalization shall assign responsibility for payment of the  
39 fee to that person, or those persons, it determines  
40 responsible for the mischaracterization,

1 misrepresentation, or other error, provided that the  
2 person, or persons, has the right to a public hearing and  
3 comment, and the procedural and substantive rights of  
4 appeal pursuant to Part 22 (commencing with Section  
5 43001) of Division 2 of the Revenue and Taxation Code.

6 (3) Any generator, transporter, or owner or operator  
7 of a disposal facility shall report to the department and  
8 the State Board of Equalization any information  
9 regarding any such mischaracterization,  
10 misrepresentation, or error, which could affect the  
11 disposal fee, within 30 days of that information first  
12 becoming known to that person.

13 (g) The State Board of Equalization shall deposit the  
14 fees collected pursuant to this section in the Hazardous  
15 Waste Control Account, for expenditure by the  
16 department, upon appropriation by the Legislature.

17 (h) The operator of the facility that disposes of the  
18 hazardous waste to land shall provide to every person  
19 who submits hazardous waste for disposal at the facility a  
20 statement showing the amount of hazardous waste fees  
21 payable pursuant to this section.

22 (i) Any person who disposes of hazardous waste at any  
23 site that is not an authorized hazardous waste facility shall  
24 be responsible for payment of fees pursuant to this section  
25 and shall be the taxpayer for purposes of Section 43151 of  
26 the Revenue and Taxation Code.

27 (j) Any administrative savings that are derived by the  
28 state as a result of changes made to this section during the  
29 1995–96 Regular Session of the Legislature shall be made  
30 available to the department and reflected in the annual  
31 Budget Act.

32 ~~SEC. 11. Section 25174.2 of the Health and Safety~~  
33 ~~Code is amended to read:~~

34 *SEC. 11. Section 25174.2 of the Health and Safety*  
35 *Code is repealed.*

36 ~~25174.2. (a) The base rate for the hazardous wastes~~  
37 ~~specified in Section 25174.6 which are disposed of or~~  
38 ~~submitted for disposal in the state is one hundred ten~~  
39 ~~dollars (\$110) per ton for disposal of hazardous waste to~~  
40 ~~land.~~



~~(b) The base rate specified in subdivision (a) is the base rate for the period of January 1, 1996, to December 31, 1996. Beginning with calendar year 1997, and for each year thereafter, the State Board of Equalization shall adjust the base rate annually to reflect increases or decreases in the cost of living during the prior fiscal year, as measured by the Consumer Price Index issued by the Department of Industrial Relations or a successor agency.~~

*SEC. 11.5. Section 25174.2 is added to the Health and Safety Code, to read:*

25174.2. (a) The base rate for the hazardous wastes specified in Section 25174.6 which are disposed of or submitted for disposal in the state is eighty-five dollars and twenty-four cents (\$85.24) per ton for disposal of hazardous waste to land.

(b) The base rate specified in subdivision (a) is the base rate for the period of January 1, 1997, to December 31, 1997. Beginning with calendar year 1998, and for each year thereafter, the State Board of Equalization shall adjust the base rate annually to reflect increases or decreases in the cost of living during the prior fiscal year, as measured by the Consumer Price Index issued by the Department of Industrial Relations or a successor agency.

*(c) This section shall become operative on January 1, 2001.*

~~SEC. 12. Section 25174.6 of the Health and Safety Code is amended to read:~~

*SEC. 12. Section 25174.6 of the Health and Safety Code is repealed.*

~~25174.6. (a) The fee provided pursuant to Section 25174.1 shall be determined as a percentage of the base rate, as adjusted by the State Board of Equalization, pursuant to Section 25174.2, or as otherwise provided by this section. The procedure for determining these fees is as follows:~~

~~(1) The following fees shall be paid for each ton, or fraction thereof for up to the first 5,000 tons of the following hazardous wastes disposed of, or submitted for disposal, in the state at each specific offsite facility by each producer, or at each specific onsite facility, per month, if~~

~~the hazardous wastes are not otherwise subject to the fee specified in paragraph (3) or (4) and are not otherwise exempt from the fees imposed pursuant to this article:~~

~~(A) For non-RCRA hazardous waste, excluding asbestos, generated in a remedial action, a removal action, or a corrective action taken pursuant to this chapter, Chapter 6.7 (commencing with Section 25280), Chapter 6.75 (commencing with Section 25299.10), or Chapter 6.8 (commencing with Section 25300), or generated in any other cleanup, removal, or remediation of a hazardous substance, a fee of seven dollars and fifty cents (\$7.50) per ton.~~

~~(B) For all other non-RCRA hazardous waste, a fee of 16.31 percent of the base rate for each ton.~~

~~(2) Thirteen percent of the base rate for each ton, or fraction thereof, shall be paid for up to the first 5,000 tons of hazardous waste disposed of, or submitted for disposal, in the state, at each specific offsite facility by each producer, or at each specific onsite facility, per month, which result from the extraction, beneficiation, and processing of ores and minerals, including phosphate rock and the overburden from the mining of uranium ore and which is not otherwise subject to the fee specified in paragraph (3) or (4).~~

~~(3) Two hundred percent of the base rate shall be paid for each ton, or fraction thereof, of extremely hazardous waste disposed of, or submitted for disposal, in the state.~~

~~(4) Two hundred percent of the base rate shall be paid for each ton, or fraction thereof, of restricted hazardous wastes listed in subdivision (b) of Section 25122.7 disposed of, or submitted for disposal, in the state.~~

~~(5) Forty and four-tenths percent of the base rate shall be paid for each ton, or fraction thereof, of hazardous waste disposed of, or submitted for disposal, in the state, which is not otherwise subject to the fees specified in paragraph (1), (2), (3), (4), or (6).~~

~~(6) Five percent of the base rate shall be paid for each ton, or fraction thereof, of hazardous waste disposed of, or submitted for disposal, in the state, that is a solid hazardous waste residue resulting from incineration or~~

1 ~~dechlorination. No fees shall be imposed pursuant to this~~  
2 ~~paragraph on a solid hazardous waste residue resulting~~  
3 ~~from incineration or dechlorination which is disposed of,~~  
4 ~~or submitted for disposal, outside of the state.~~

5 ~~(7) Fifty percent of the fee that would otherwise be~~  
6 ~~paid for each ton, or fraction thereof, of hazardous waste~~  
7 ~~disposed of in the state, that is a solid hazardous waste~~  
8 ~~residue resulting from treatment of a treatable waste by~~  
9 ~~means of a designated treatment technology, as defined~~  
10 ~~in Section 25179.2. No fees shall be imposed pursuant to~~  
11 ~~this paragraph on a solid hazardous waste residue~~  
12 ~~resulting from treatment of a treatable waste by means of~~  
13 ~~a designated treatment technology that is not a hazardous~~  
14 ~~waste or which is disposed of, or submitted for disposal,~~  
15 ~~outside of the state.~~

16 ~~(b) The amount of fees payable to the State Board of~~  
17 ~~Equalization pursuant to this section shall be calculated~~  
18 ~~using the total wet weight, measured in tons or fractions~~  
19 ~~thereof, of the hazardous waste in the form in which the~~  
20 ~~hazardous waste existed at the time of disposal,~~  
21 ~~submission for disposal, or application to land using a land~~  
22 ~~disposal method, as defined in Section 66260.10 of Title 22~~  
23 ~~of the California Code of Regulations, if all of the~~  
24 ~~following apply:~~

25 ~~(1) The weight of any nonhazardous reagents or~~  
26 ~~treatment additives added to the waste, after it has been~~  
27 ~~submitted for disposal, for purposes of rendering the~~  
28 ~~waste less hazardous, shall not be included in those~~  
29 ~~calculations.~~

30 ~~(2) Except as provided by paragraph (7) of~~  
31 ~~subdivision (a), any RCRA hazardous waste received,~~  
32 ~~treated, and disposed at the disposal facility shall be~~  
33 ~~subject to a disposal fee pursuant to this section as if it~~  
34 ~~were a non-RCRA hazardous waste, if the waste, due to~~  
35 ~~treatment, is no longer a RCRA hazardous waste at the~~  
36 ~~time of disposal.~~

37 ~~(c) All fees imposed by this section shall be paid in~~  
38 ~~accordance with Part 22 (commencing with Section~~  
39 ~~43001) of Division 2 of the Revenue and Taxation Code.~~

1 SEC. 12.3. Section 25174.6 is added to the Health and  
2 Safety Code, to read:

3 25174.6. (a) The fee provided in Section 25174.1 shall  
4 be calculated pursuant to the requirements of this section  
5 with regard to the manner in which the hazardous waste  
6 exists at the time of disposal in this state. The following  
7 procedures shall be used for determining these fees, if the  
8 hazardous waste is not otherwise exempt from the fees  
9 imposed pursuant to this article:

10 (1) For RCRA hazardous wastes generated in a  
11 remedial action, a removal action, or a corrective action  
12 taken pursuant to this chapter, Chapter 6.7 (commencing  
13 with Section 25280), Chapter 6.75 (commencing with  
14 Section 25299.10), or Chapter 6.8 (commencing with  
15 Section 25300), or generated in any other required or  
16 voluntary cleanup, removal, or remediation of a  
17 hazardous substance or RCRA hazardous waste, the  
18 following fees shall be paid for each ton, or fraction  
19 thereof, of hazardous waste disposed of in this state:

20 (A) Except as provided in subparagraph (B), for  
21 RCRA hazardous waste that is disposed of in compliance  
22 with land disposal restriction treatment standards  
23 adopted by the Environmental Protection Agency in Part  
24 268 (commencing with Section 268.1) of Title 40 of the  
25 Code of Federal Regulations at the time of disposal, a fee  
26 of twenty-two dollars (\$22) per ton.

27 (B) For RCRA hazardous waste subject to this  
28 paragraph that is treated so that the waste is no longer a  
29 RCRA hazardous waste at the time of disposal, the  
30 following fees shall be paid:

31 (i) For waste that is a non-RCRA hazardous waste, a  
32 fee of four dollars (\$4) per ton.

33 (ii) For waste that is no longer a hazardous waste, a fee  
34 of one dollar and fifty cents (\$1.50) per ton.

35 (2) For all other RCRA hazardous waste not subject to  
36 paragraph (1), the following fees shall be paid for each  
37 ton, or fraction thereof, of hazardous waste, disposed of in  
38 this state:

39 (A) If the RCRA hazardous waste is disposed of in  
40 compliance with land disposal restriction treatment

1 standards adopted by the Environmental Protection  
2 Agency in Part 268 (commencing with Section 268.1) of  
3 Title 40 of the Code of Federal Regulations at the time of  
4 disposal, a fee of thirty-two dollars (\$32) shall be paid per  
5 ton.

6 (B) If the RCRA hazardous waste is treated so that the  
7 waste is no longer a RCRA hazardous waste at the time  
8 of disposal, the following fees shall be paid:

9 (i) For waste that is a non-RCRA hazardous waste, a  
10 fee of twelve dollars and fifty cents (\$12.50) per ton.

11 (ii) For waste that is no longer a hazardous waste, a fee  
12 of one dollar and fifty cents (\$1.50) per ton.

13 (3) The following fees shall be paid for each ton, or  
14 fraction thereof, for up to the first 5,000 tons, of the  
15 following hazardous wastes disposed of, or submitted for  
16 disposal, in this state, at each specific offsite facility by  
17 each producer, or at each specific onsite facility per  
18 month, if the hazardous wastes are not otherwise subject  
19 to the fee specified in paragraph (5):

20 (A) For a hazardous waste that is a non-RCRA  
21 hazardous waste at the time of disposal, other than  
22 asbestos, that is generated in a remedial action, a removal  
23 action, or a corrective action taken pursuant to this  
24 chapter, Chapter 6.7 (commencing with Section 25280),  
25 Chapter 6.75 (commencing with Section 25299.10), or  
26 Chapter 6.8 (commencing with Section 25300), or  
27 generated in any other required or voluntary cleanup,  
28 removal, or remediation of a hazardous substance or  
29 non-RCRA hazardous waste, a fee of one dollar (\$1) per  
30 ton.

31 (B) For all other hazardous wastes that are non-RCRA  
32 hazardous waste at the time of disposal, a fee of ten dollars  
33 and fifty cents (\$10.50) per ton.

34 (4) For each ton, or fraction thereof, for up to the first  
35 5,000 tons of hazardous waste disposed of, or submitted for  
36 disposal, in this state, at each specific offsite facility by  
37 each producer, or at each specific onsite facility, per  
38 month, that results from the extraction, beneficiation,  
39 and processing of ores and minerals, including phosphate  
40 rock and the overburden from the mining of uranium ore,

1 and which is not otherwise subject to the fee specified in  
2 paragraph (5), a fee of ten dollars and fifty cents (\$10.50)  
3 per ton.

4 (5) A fee of two hundred dollars (\$200) per ton shall  
5 be paid for each ton, or fraction thereof, of the following  
6 types of hazardous wastes disposed of in this state:

7 (A) Hazardous waste that is extremely hazardous  
8 waste at the time of disposal.

9 (B) Hazardous waste that is a restricted hazardous  
10 waste listed in subdivision (b) of Section 25122.7 at the  
11 time of disposal.

12 (6) (A) Four dollars (\$4) shall be paid for each ton, or  
13 fraction thereof, of hazardous waste disposed of, or  
14 submitted for disposal, in this state, that is a solid  
15 hazardous waste residue resulting from incineration or  
16 dechlorination.

17 (B) No fees shall be imposed pursuant to this  
18 paragraph on a solid hazardous waste residue resulting  
19 from incineration or dechlorination that is disposed of, or  
20 submitted for disposal, outside this state.

21 (b) The amount of fees payable to the State Board of  
22 Equalization pursuant to this section shall be calculated  
23 using the total wet weight, measured in tons or fractions  
24 thereof, of the hazardous waste in the form in which the  
25 hazardous waste exists at the time of disposal, or  
26 application to land using a land disposal method, as  
27 defined in Section 66260.10 of Title 22 of the California  
28 Code of Regulations, as that section read on January 1,  
29 1998. However, the weight of any nonhazardous reagents  
30 or treatment additives added to the hazardous waste,  
31 after it has been submitted for disposal, for purposes of  
32 rendering the hazardous waste less hazardous, shall not  
33 be included in those calculations.

34 (c) All fees imposed pursuant to this section shall be  
35 paid in accordance with part 22 (commencing with  
36 Section 43001) of Division 2 of the Revenue and Taxation  
37 Code.

38 (d) The disposal fee rates specified in this section shall  
39 be the rates for the period of January 1, 1998, to December  
40 31, 1998. Beginning with calendar year 1999, and for each

1 year thereafter; the State Board of Equalization shall, at the request of the department, adjust those rates to reflect increases or decreases in the cost of living during the prior year, as measured by the Department of Industrial Relations or a successor agency.

(e) This section shall become operative on January 1, 1998, and shall remain in effect only until January 1, 2001, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2001, deletes or extends that date.

SEC. 12.5. Section 25174.6 is added to the Health and Safety Code, to read:

25174.6. (a) The fee provided pursuant to Section 25174.1 shall be determined as a percentage of the base rate, as adjusted by the State Board of Equalization, pursuant to Section 25174.2, or as otherwise provided by this section. The procedure for determining these fees is as follows:

(1) The following fees shall be paid for each ton, or fraction thereof for up to the first 5,000 tons of the following hazardous wastes disposed of, or submitted for disposal, in the state at each specific offsite facility by each producer, or at each specific onsite facility, per month, if the hazardous wastes are not otherwise subject to the fee specified in paragraph (3) or (4) and are not otherwise exempt from the fees imposed pursuant to this article:

(A) For non-RCRA hazardous waste, excluding asbestos, generated in a remedial action, a removal action, or a corrective action taken pursuant to this chapter, Chapter 6.7 (commencing with Section 25280), Chapter 6.75 (commencing with Section 25299.10), or Chapter 6.8 (commencing with Section 25300), or generated in any other required or voluntary cleanup, removal, or remediation of a hazardous substance or non-RCRA hazardous waste, a fee of five dollars and seventy-two cents (\$5.72) per ton.

(B) For all other non-RCRA hazardous waste, a fee of 16.31 percent of the base rate for each ton.

(2) Thirteen percent of the base rate for each ton, or fraction thereof, shall be paid for up to the first 5,000 tons

1 of hazardous waste disposed of, or submitted for disposal,  
2 in the state, at each specific offsite facility by each  
3 producer, or at each specific onsite facility, per month,  
4 which result from the extraction, beneficiation, and  
5 processing of ores and minerals, including phosphate rock  
6 and the overburden from the mining of uranium ore and  
7 which is not otherwise subject to the fee specified in  
8 paragraph (3) or (4).

9 (3) Two hundred percent of the base rate shall be paid  
10 for each ton, or fraction thereof, of extremely hazardous  
11 waste disposed of, or submitted for disposal, in the state.

12 (4) Two hundred percent of the base rate shall be paid  
13 for each ton, or fraction thereof, of restricted hazardous  
14 wastes listed in subdivision (b) of Section 25122.7  
15 disposed of, or submitted for disposal, in the state.

16 (5) Forty and four-tenths percent of the base rate shall  
17 be paid for each ton, or fraction thereof, of hazardous  
18 waste disposed of, or submitted for disposal, in the state,  
19 which is not otherwise subject to the fees specified in  
20 paragraph (1), (2), (3), (4), or (6).

21 (6) Five percent of the base rate shall be paid for each  
22 ton, or fraction thereof, of hazardous waste disposed of, or  
23 submitted for disposal, in the state, that is a solid  
24 hazardous waste residue resulting from incineration or  
25 dechlorination. No fees shall be imposed pursuant to this  
26 paragraph on a solid hazardous waste residue resulting  
27 from incineration or dechlorination which is disposed of,  
28 or submitted for disposal, outside of the state.

29 (7) Fifty percent of the fee that would otherwise be  
30 paid for each ton, or fraction thereof, of hazardous waste  
31 disposed of in the state, that is a solid hazardous waste  
32 residue resulting from treatment of a treatable waste by  
33 means of a designated treatment technology, as defined  
34 in Section 25179.2. No fees shall be imposed pursuant to  
35 this paragraph on a solid hazardous waste residue  
36 resulting from treatment of a treatable waste by means of  
37 a designated treatment technology that is not a hazardous  
38 waste or which is disposed of, or submitted for disposal,  
39 outside of the state.



1 (b) The amount of fees payable to the State Board of  
2 Equalization pursuant to this section shall be calculated  
3 using the total wet weight, measured in tons or fractions  
4 thereof, of the hazardous waste in the form in which the  
5 hazardous waste existed at the time of disposal,  
6 submission for disposal, or application to land using a land  
7 disposal method, as defined in Section 66260.10 of Title 22  
8 of the California Code of Regulations, if all of the  
9 following apply:

10 (1) The weight of any nonhazardous reagents or  
11 treatment additives added to the waste, after it has been  
12 submitted for disposal, for purposes of rendering the  
13 waste less hazardous, shall not be included in those  
14 calculations.

15 (2) Except as provided by paragraph (7) of  
16 subdivision (a), any RCRA hazardous waste received,  
17 treated, and disposed at the disposal facility shall be  
18 subject to a disposal fee pursuant to this section as if it  
19 were a non-RCRA hazardous waste, if the waste, due to  
20 treatment, is no longer a RCRA hazardous waste at the  
21 time of disposal.

22 (c) All fees imposed by this section shall be paid in  
23 accordance with Part 22 (commencing with Section  
24 43001) of Division 2 of the Revenue and Taxation Code.

25 (d) *This section shall become operative on January 1,*  
26 *2001.*

27 SEC. 13. Section 25178.1 of the Health and Safety  
28 Code is amended to read:

29 25178.1. The State Board of Equalization shall provide  
30 quarterly reports to the Legislature on the fees collected  
31 pursuant to Sections 25174.1, 25205.2, and 25205.5. The  
32 reports shall be due on the 15th day of the second month  
33 following each quarter.

34 SEC. 14. Section 25187 of the Health and Safety Code  
35 is amended to read:

36 25187. (a) (1) Whenever the department, a unified  
37 program agency authorized pursuant to paragraph (2),  
38 local health officer authorized pursuant to Section  
39 25187.7, or a local public officer designated by the director  
40 pursuant to subdivision (a) of Section 25180 and

1 authorized pursuant to Section 25187.7 determines that  
2 any person has violated, is in violation of, or threatens, as  
3 defined in subdivision (e) of Section 13304 of the Water  
4 Code, to violate, this chapter, Chapter 6.8 (commencing  
5 with Section 25300) of this division, or Article 3  
6 (commencing with Section 114990) of Chapter 8 of Part  
7 9 of Division 104, or any permit, rule, regulation, standard,  
8 or requirement issued or adopted pursuant to this  
9 chapter, Chapter 6.8 (commencing with Section 25300)  
10 of this division, or Article 3 (commencing with Section  
11 114990) of Chapter 8 of Part 9 of Division 104, or the  
12 department, an authorized unified program agency, an  
13 authorized local health officer, or an authorized local  
14 public officer determines that there is or has been a  
15 release, as defined in Chapter 6.8 (commencing with  
16 Section 25300), of hazardous waste or constituents into  
17 the environment from a hazardous waste facility, the  
18 department, an authorized unified program agency,  
19 authorized local health officer, or authorized local public  
20 officer may issue an order specifying a schedule for  
21 compliance or correction and imposing an administrative  
22 penalty for any violation of this chapter or any permit,  
23 rule, regulation, standard, or requirement issued or  
24 adopted pursuant to this chapter. In the case of a release  
25 of hazardous waste or constituents into the environment  
26 from a hazardous waste facility that is required to obtain  
27 a permit pursuant to Article 9 (commencing with Section  
28 25200), the department shall pursue the remedies  
29 available under this chapter, including the issuance of an  
30 order for corrective action pursuant to this section, before  
31 using the legal remedies available pursuant to Chapter 6.8  
32 (commencing with Section 25300), except in any of the  
33 following circumstances:

34 (A) Where the person who is responsible for the  
35 release voluntarily requests in writing that the  
36 department issue an order to that person to take  
37 corrective action pursuant to Chapter 6.8 (commencing  
38 with Section 25300).

39 (B) Where the person who is responsible for the  
40 release is unable to pay for the cost of corrective action

1 to address the release. For purposes of this subparagraph,  
2 the inability of a person to pay for the cost of corrective  
3 action shall be determined in accordance with the  
4 policies of the Environmental Protection Agency for the  
5 implementation of Section 9605 of Title 42 of the United  
6 States Code.

7 (C) Where the person responsible for the release is  
8 unwilling to perform corrective action to address the  
9 release. For purposes of this subparagraph, the  
10 unwillingness of a person to take corrective action shall  
11 be determined in accordance with the policies of the  
12 Environmental Protection Agency for the  
13 implementation of Section 9605 of Title 42 of the United  
14 States Code.

15 (D) Where the release is part of a regional or multisite  
16 groundwater contamination problem that cannot, in its  
17 entirety, be addressed using the legal remedies available  
18 pursuant to this chapter and for which other releases that  
19 are part of the regional or multisite groundwater  
20 contamination problem are being addressed using the  
21 legal remedies available pursuant to Chapter 6.8  
22 (commencing with Section 25300).

23 (E) Where an order for corrective action has already  
24 been issued against the person responsible for the release,  
25 or the department and the person responsible for the  
26 release have, prior to January 1, 1996, entered into an  
27 agreement to address the required cleanup of the release  
28 pursuant to Chapter 6.8 (commencing with Section  
29 25300).

30 (F) Where the hazardous waste facility is owned or  
31 operated by the federal government.

32 (2) The authority granted under this section to a  
33 unified program agency is limited to the issuance of  
34 orders to correct releases from, and violations of the  
35 requirements of this chapter listed in paragraph (1) of  
36 subdivision (c) of Section 25404 occurring at, a unified  
37 program facility within the jurisdiction of the CUPA, and  
38 is subject to the provisions of Section 25404.1.

39 (A) Notwithstanding paragraph (1) and Section  
40 25187.7, within the jurisdiction of a CUPA, the unified

1 program agencies shall be the only local agencies  
2 authorized to issue orders under this section to correct  
3 releases from, and violations of the requirements of this  
4 chapter listed to paragraph (1) of subdivision (c) of  
5 Section 25404 occurring at, a unified program facility.

6 (B) The CUPA shall annually submit a summary  
7 report to the department on the status of orders issued by  
8 the unified program agencies under this section and  
9 Section 25187.1.

10 (C) The department shall adopt regulations to  
11 implement this paragraph and paragraph (2) of  
12 subdivision (a) of Section 25187.1. The regulations shall  
13 include, but not be limited to, all of the following  
14 requirements:

15 (i) A requirement that the unified program agency  
16 shall consult with the district attorney for the county on  
17 the development of policies to be followed by the unified  
18 program agency in exercising the authority delegated  
19 pursuant to this section and Section 25187.1.

20 (ii) Provisions to ensure coordinated and consistent  
21 application of this section and Section 25187.1 when both  
22 the department and the unified program agency have or  
23 will be issuing orders under one or both of these sections  
24 at the same facility.

25 (iii) Provisions to ensure that the enforcement  
26 authority granted to the unified program agencies will be  
27 exercised consistently throughout the state.

28 (iv) A requirement that the unified program agency  
29 have the ability to represent itself in administrative  
30 appeal hearings.

31 (v) Minimum training requirements for staff of the  
32 unified program agency relative to this section and  
33 Section 25187.1.

34 (vi) Procedures to be followed by the department to  
35 rescind the authority granted to a unified program  
36 agency under this section and Section 25187.1, if the  
37 department finds that the unified program agency is not  
38 exercising that authority in a manner consistent with the  
39 provisions of this chapter and Chapter 6.11 (commencing

1 with Section 25404) and the regulations adopted pursuant  
2 thereto.

3 (3) An order issued pursuant to this section shall  
4 include a requirement that the person take corrective  
5 action with respect to hazardous waste, including the  
6 cleanup of the hazardous waste, abatement of the effects  
7 thereof, and any other necessary remedial action. An  
8 order issued pursuant to this section that requires  
9 corrective action at a hazardous waste facility shall  
10 require that corrective action be taken beyond the  
11 facility boundary, where necessary to protect human  
12 health or the environment. The order shall incorporate,  
13 as a condition of the order, any applicable waste discharge  
14 requirements issued by the State Water Resources  
15 Control Board or a California regional water quality  
16 control board, and shall be consistent with all applicable  
17 water quality control plans adopted pursuant to Section  
18 13170 of the Water Code and Article 3 (commencing with  
19 Section 13240) of Chapter 4 of Division 7 of the Water  
20 Code and state policies for water quality control adopted  
21 pursuant to Article 3 (commencing with Section 13140)  
22 of Chapter 3 of Division 7 of the Water Code existing at  
23 the time of the issuance of the order, to the extent that the  
24 department, authorized unified program agency,  
25 authorized local health officer, or authorized local public  
26 officer determines that those plans and policies are not  
27 less stringent than this chapter and regulations adopted  
28 pursuant to this chapter. The department, authorized  
29 unified program agency, authorized local health officer,  
30 or authorized local public officer also may include any  
31 more stringent requirement that the department,  
32 authorized unified program agency, authorized local  
33 health officer, or authorized local public officer  
34 determines is necessary or appropriate to protect water  
35 quality. Persons who are subject to an order pursuant to  
36 this section include present and prior owners, lessees, or  
37 operators of the property where the hazardous waste is  
38 located, present or past generators, storers, treaters,  
39 transporters, disposers, and handlers of hazardous waste,  
40 and persons who arrange, or have arranged, by contract

1 or other agreement, to store, treat, transport, dispose of,  
2 or otherwise handle hazardous waste.

3 (4) In an order proposing a penalty pursuant to this  
4 section, the department, authorized unified program  
5 agency, authorized local health officer, or authorized  
6 local public officer shall take into consideration the  
7 nature, circumstances, extent, and gravity of the  
8 violation, the violator's past and present efforts to  
9 prevent, abate, or clean up conditions posing a threat to  
10 the public health or safety or the environment, the  
11 violator's ability to pay the proposed civil penalty, and the  
12 prophylactic effect that imposition of the proposed  
13 penalty would have on both the violator and the  
14 regulated community as a whole.

15 (b) For purposes of subdivision (a), "hazardous waste  
16 facility" includes the entire site that is under the control  
17 of an owner or operator engaged in the management of  
18 hazardous waste.

19 (c) Any order issued pursuant to subdivision (a) shall  
20 be served by personal service or certified mail and shall  
21 inform the person so served of the right to a hearing.

22 (d) (1) Any person served with an order pursuant to  
23 subdivision (c) who has been unable to resolve any  
24 violation or deficiency on an informal basis with the  
25 department, authorized unified program agency,  
26 authorized local health officer, or authorized local public  
27 officer may, within 15 days after service of the order,  
28 request a hearing by filing with the department,  
29 authorized unified program agency, authorized local  
30 health officer, or authorized local public officer a notice  
31 of defense. The notice shall be filed with the office that  
32 issued the order. A notice of defense shall be deemed filed  
33 within the 15-day period provided by this subdivision if it  
34 is postmarked within that 15-day period. If no notice of  
35 defense is filed within the time limits provided by this  
36 subdivision, the order shall become final.

37 (2) If a person served with an order pursuant to  
38 subdivision (c) chooses to resolve the content, terms, or  
39 conditions of the order directly with the department,  
40 authorized unified program agency, authorized local



1 health officer, or authorized local public officer and does  
2 not file an administrative or judicial appeal, the person  
3 may request, and the department, authorized unified  
4 program agency, authorized local health officer, or  
5 authorized local public officer shall prepare, a written  
6 statement, that the department, authorized unified  
7 program agency, authorized local health officer, or  
8 authorized local public officer shall amend into the order,  
9 that explains the violation and the penalties applied,  
10 including the nature, extent, and gravity of the violations,  
11 and that includes a brief description of any mitigating  
12 circumstances and any explanations by the respondent.  
13 Any amendment to include the written statement  
14 prepared pursuant to this subdivision does not constitute  
15 a new order and does not create new appeal rights.

16 (e) Except as provided in subdivision (f), any hearing  
17 requested under subdivision (d) shall be conducted  
18 within 90 days after receipt of the notice of defense by an  
19 administrative law judge of the Office of Administrative  
20 Hearings of the Department of General Services in  
21 accordance with Chapter 5 (commencing with Section  
22 11500) of Part 1 of Division 3 of Title 2 of the Government  
23 Code, and the department, authorized unified program  
24 agency, authorized local health officer, or authorized  
25 local public officer shall have all the authority granted to  
26 an agency by those provisions.

27 (f) Any provision of an order issued under subdivision  
28 (a), except the imposition of an administrative penalty,  
29 shall take effect upon issuance by the department or  
30 unified program agency if the department or unified  
31 program agency finds that the violation or violations of  
32 law associated with that provision may pose an imminent  
33 and substantial endangerment to the public health or  
34 safety or the environment, and a request for a hearing  
35 shall not stay the effect of that provision of the order  
36 pending a decision by the department under subdivision  
37 (e). However, in the event that the department or  
38 unified program agency determines that any or all  
39 provisions of the order are so related that the public  
40 health or safety or the environment can be protected only

1 by immediate compliance with the order as a whole, then  
2 the order as a whole, except the imposition of an  
3 administrative penalty, shall take effect upon issuance by  
4 the department or unified program agency. A request for  
5 a hearing shall not stay the effect of the order as a whole  
6 pending a decision by the hearing officer under  
7 subdivision (e). Any order issued after a hearing  
8 requested under subdivision (d) shall take effect upon  
9 issuance by the department or unified program agency.

10 (g) A decision issued pursuant to this section may be  
11 reviewed by the court pursuant to Section 11523 of the  
12 Government Code. In all proceedings pursuant to this  
13 subdivision, the court shall uphold the decision of the  
14 department, authorized unified program agency,  
15 authorized local health officer, or authorized local public  
16 officer if the decision is based upon substantial evidence  
17 in the whole record. The filing of a petition for writ of  
18 mandate shall not stay any corrective action required  
19 pursuant to this chapter or the accrual of any penalties  
20 assessed pursuant to this chapter. This subdivision does  
21 not prohibit the court from granting any appropriate  
22 relief within its jurisdiction.

23 (h) Except as otherwise provided in subdivisions (i)  
24 and (j), all administrative penalties collected under this  
25 section shall be placed in a separate subaccount in the  
26 Toxic Substances Control Account and shall be available  
27 only for transfer to the Site Remediation Account or the  
28 Expedited Site Remediation Trust Fund and for  
29 expenditure by the department upon appropriation by  
30 the Legislature.

31 (i) Fifty percent of the penalties collected from  
32 actions brought by unified program agencies, local health  
33 officers or designated local public officers pursuant to this  
34 section shall be paid to the city or county whose unified  
35 program agency, local health officer, or designated local  
36 public officer imposed the penalty, and shall be deposited  
37 into a special account that may be expended to fund the  
38 activities of the unified program agency, local health  
39 officer, or designated local public officer in enforcing this  
40 chapter pursuant to Section 25180, after the director



1 determines that the local agency enforcement of this  
2 section is fair and reasonable.

3 (j) Fifty percent of the penalties collected from  
4 actions brought by unified program agencies, local health  
5 officers, or designated local public officers pursuant to  
6 this section shall be paid to the department and deposited  
7 in the Hazardous Waste Control Account for expenditure  
8 by the department, upon appropriation by the  
9 Legislature, in connection with activities of unified  
10 program agencies, local health officers, or designated  
11 local public officers.

12 SEC. 14.5. Section 25187.9 of the Health and Safety  
13 Code is repealed.

14 SEC. 15. Section 25192 of the Health and Safety Code  
15 is amended to read:

16 25192. (a) All civil and criminal penalties collected  
17 pursuant to this chapter or Chapter 6.6 (commencing  
18 with Section 25249.5) shall be apportioned in the  
19 following manner:

20 (1) Fifty percent shall be deposited in the Hazardous  
21 Substances Account in the General Fund.

22 (2) Twenty-five percent shall be paid to the office of  
23 the city attorney, city prosecutor, district attorney, or  
24 Attorney General, whichever office brought the action,  
25 or in the case of an action brought by a person under  
26 subdivision (d) of Section 25249.7 to that person.

27 (3) Twenty-five percent shall be paid to the  
28 department and used to fund the activity of the CUPA,  
29 the local health officer, or other local public officer or  
30 agency authorized to enforce the provisions of this  
31 chapter pursuant to Section 25180, whichever entity  
32 investigated the matter that led to the bringing of the  
33 action. If investigation by the local police department or  
34 sheriff's office or California Highway Patrol led to the  
35 bringing of the action, the CUPA, the local health officer,  
36 or the authorized officer or agency, shall pay a total of 40  
37 percent of its portion under this subdivision to that  
38 investigating agency or agencies to be used for the same  
39 purpose. If more than one agency is eligible for payment  
40 under this paragraph, division of payment among the

1 eligible agencies shall be in the discretion of the CUPA,  
2 the local health officer, or the authorized officer or  
3 agency.

4 (b) If a reward is paid to a person pursuant to Section  
5 25191.7, the amount of the reward shall be deducted from  
6 the amount of the civil penalty before the amount is  
7 apportioned pursuant to subdivision (a).

8 SEC. 16. Section 25201.6 of the Health and Safety  
9 Code is amended to read:

10 25201.6. (a) For purposes of this section and Section  
11 25205.2, the following terms have the following meaning:

12 (1) “Series A standardized permit” means a permit  
13 issued to a facility that meets one of the following  
14 conditions:

15 (A) The total influent volume of liquid hazardous  
16 waste treated is greater than 50,000 gallons per calendar  
17 month.

18 (B) The total volume of solid hazardous waste treated  
19 is greater than 100,000 pounds per calendar month.

20 (C) Where both liquid and solid hazardous wastes are  
21 being treated, either the total volume of liquid hazardous  
22 waste treated exceeds the volume specified in  
23 subparagraph (A), or the total volume of solid hazardous  
24 waste treated exceeds the volume specified in  
25 subparagraph (B).

26 (D) The total facility storage design capacity is greater  
27 than 500,000 gallons for liquid hazardous waste.

28 (E) The total facility storage design capacity is greater  
29 than 500 tons for solid hazardous waste.

30 (F) Where both liquid and solid hazardous waste are  
31 being stored, the total volume of liquid hazardous waste  
32 stored exceeds the volume specified in subparagraph  
33 (D), or the total volume of solid hazardous waste stored  
34 exceeds the volume specified in subparagraph (E).

35 (G) A volume of liquid or solid hazardous waste is  
36 stored at the facility for more than one calendar year.

37 (2) “Series B standardized permit” means a permit  
38 issued to a facility that does not store liquid or solid  
39 hazardous waste for a period of more than one calendar  
40 year, and that meets one of the following conditions:



1 (A) The total influent volume of liquid hazardous  
2 waste treated is greater than 5,000 gallons, but less than  
3 50,000 gallons, per calendar month.

4 (B) The total volume of solid hazardous waste treated  
5 is greater than 10,000 pounds, but less than 100,000  
6 pounds, per calendar month.

7 (C) Where both liquid and solid hazardous wastes are  
8 being treated, the total volume of liquid hazardous waste  
9 treated does not exceed the volume specified in  
10 subparagraph (A), and the volume of solid hazardous  
11 waste treated does not exceed the volume specified in  
12 subparagraph (B).

13 (D) The total facility storage design capacity is greater  
14 than 50,000 gallons, but less than 500,000 gallons, for liquid  
15 hazardous waste.

16 (E) The total facility storage design capacity is greater  
17 than 100,000 pounds, but less than 500 tons, for solid  
18 hazardous waste.

19 (F) Where both liquid and solid hazardous wastes are  
20 being stored, the total volume of liquid hazardous waste  
21 stored does not exceed the volume specified in  
22 subparagraph (D), and the total volume of solid  
23 hazardous waste stored does not exceed the volume  
24 specified in subparagraph (E).

25 (3) “Series C standardized permit” means a permit  
26 issued to a facility that does not store liquid or solid  
27 hazardous waste for a period of more than one calendar  
28 year, that does not conduct thermal treatment of  
29 hazardous waste, with the exception of evaporation, and  
30 that meets one of the following conditions:

31 (A) The total influent volume of liquid hazardous  
32 waste treated does not exceed 5,000 gallons per calendar  
33 month.

34 (B) The total volume of solid hazardous waste treated  
35 does not exceed 10,000 pounds per calendar month.

36 (C) Where both liquid and solid hazardous wastes are  
37 being treated, the total volume of liquid hazardous waste  
38 treated does not exceed the volume specified in  
39 subparagraph (A), and the total volume of solid

1 hazardous waste treated does not exceed the volume  
2 specified in subparagraph (B).

3 (D) The total facility storage design capacity does not  
4 exceed 50,000 gallons for liquid hazardous waste.

5 (E) The total facility storage design capacity does not  
6 exceed 100,000 pounds for solid hazardous waste.

7 (F) Where both liquid and solid hazardous wastes are  
8 being stored, the total volume of liquid hazardous waste  
9 stored does not exceed the volume specified in  
10 subparagraph (D) and the total volume of solid  
11 hazardous waste stored does not exceed the volume  
12 specified in subparagraph (E).

13 (G) The surface impoundment is used to contain  
14 non-RCRA hazardous waste that meets the requirements  
15 of paragraph (3) of subdivision (g).

16 (b) The department shall adopt regulations specifying  
17 standardized hazardous waste facilities permit  
18 application forms that may be completed by a non-RCRA  
19 Series A, B, or C treatment, storage, or treatment and  
20 storage facility, in lieu of other hazardous waste facilities  
21 permit application procedures set forth in regulations.  
22 The department shall not issue permits under this section  
23 to specific classes of facilities unless the department finds  
24 that doing so will not create a competitive disadvantage  
25 to a member or members of that class which were in  
26 compliance with the permitting requirements which  
27 were in effect on September 1, 1992.

28 (c) The regulations adopted pursuant to subdivision  
29 (b) shall include all of the following:

30 (1) Require that the standardized permit notification  
31 be submitted to the department on or before October 1,  
32 1993, for facilities existing on or before September 1, 1992,  
33 except for facilities specified in paragraphs (2) and (3) of  
34 subdivision (g). The standardized permit notification  
35 shall include, at a minimum, the information required for  
36 a Part A application as described in the regulations  
37 adopted by the department.

38 (2) Require that the standardized permit application  
39 be submitted to the department within six months of the  
40 submittal of the standardized permit notification. The

1 standardized permit application shall require, at a  
2 minimum, that the following information be submitted to  
3 the department for review prior to the final permit  
4 determination:

5 (A) A description of the treatment and storage  
6 activities to be covered by the permit, including the type  
7 and volumes of waste, the treatment process, equipment  
8 description, and design capacity.

9 (B) A copy of the closure plan as required by  
10 paragraph (13) of subdivision (b) of Section 66270.14 of  
11 Title 22 of the California Code of Regulations.

12 (C) A description of the corrective action program, as  
13 required by Section 25200.10.

14 (D) Financial responsibility documents specified in  
15 paragraph (17) of subdivision (b) of Section 66270.14 of  
16 Title 22 of the California Code of Regulations.

17 (E) A copy of the topographical map as specified in  
18 paragraph (18) of subdivision (b) of Section 66270.14 of  
19 Title 22 of the California Code of Regulations.

20 (F) A description of the individual container, and tank  
21 and containment system, and of the engineer's  
22 certification, as specified in Sections 66270.15 and  
23 66270.16 of Title 22 of the California Code of Regulations.

24 (G) Documentation of compliance, if applicable, with  
25 the requirements of Article 8.7 (commencing with  
26 Section 25199).

27 (3) Require that a facility operating pursuant to a  
28 standardized permit comply with the liability assurance  
29 requirements in Section 25200.1.

30 (4) Specify which of the remaining elements of the  
31 permit application as described in subdivision (b) of  
32 Section 66270.14 of the California Code of Regulations  
33 shall be the subject of a certification of compliance by the  
34 applicant.

35 (5) Establish a procedure for imposing an  
36 administrative penalty pursuant to Section 25187, in  
37 addition to any other penalties provided by this chapter,  
38 upon an owner or operator of a treatment or storage  
39 facility that is required to obtain a hazardous waste  
40 facilities permit and that meets the criteria for a Series A,

1 B, or C permit listed in subdivision (a), who does not  
2 submit a standardized permit notification to the  
3 department on or before the submittal deadline specified  
4 in paragraph (1) or the submittal deadline specified in  
5 paragraph (2) or (3) of subdivision (g), whichever date  
6 is applicable, and who continues to operate the facility  
7 without obtaining a hazardous waste facilities permit or  
8 other grant of authorization from the department after  
9 the applicable deadline for submitting the notification to  
10 the department. In determining the amount of the  
11 administrative penalty to be assessed, the regulations  
12 shall require the amount to be based upon the economic  
13 benefit gained by that owner or operator as a result of  
14 failing to comply with this section.

15 (6) Require that a facility operating pursuant to a  
16 standardized permit comply, at a minimum, with the  
17 interim status facility operating requirements specified in  
18 the regulations adopted by the department, except that  
19 the regulations adopted pursuant to this section may  
20 specify financial assurance amounts necessary to  
21 adequately respond to damage claims at levels that are  
22 less than those required for interim status facilities if the  
23 department determines that lower financial assurance  
24 levels are appropriate.

25 (d) (1) Any regulations adopted pursuant to this  
26 section may be adopted as emergency regulations in  
27 accordance with Chapter 3.5 (commencing with Section  
28 11340) of Part 1 of Division 3 of Title 2 of the Government  
29 Code.

30 (2) On and before January 1, 1995, the adoption of the  
31 regulations pursuant to paragraph (1) is an emergency  
32 and shall be considered by the Office of Administrative  
33 Law as necessary for the immediate preservation of the  
34 public peace, health and safety, and general welfare.

35 (e) The department may not grant a permit under this  
36 section unless the department has determined the  
37 adequacy of the material submitted with the application  
38 and has conducted an inspection of the facility and  
39 determined all of the following:



1 (1) The treatment process is an effective method of  
2 treating the waste, as described in the permit application.

3 (2) The corrective action plan is appropriate for the  
4 facility.

5 (3) The financial assurance is sufficient for the facility.

6 (f) (1) Interim status shall not be granted to a facility  
7 that does not submit a standardized permit notification  
8 on or before October 1, 1993, unless the facility is subject  
9 to paragraph (2) or (3) of subdivision (g).

10 (2) Interim status shall be revoked if the permit  
11 application is not submitted within six months of the  
12 permit notification.

13 (3) Interim status granted to any facility pursuant to  
14 this section and Sections 25200.5 and 25200.9 shall  
15 terminate upon a final permit determination or January  
16 1, 1998, whichever date is earlier. This paragraph shall  
17 apply retroactively to facilities for which a final permit  
18 determination is made on or after September 30, 1995.

19 (4) A treatment, storage, or treatment and storage  
20 facility operating pursuant to interim status which applies  
21 for a permit pursuant to this section shall pay fees to the  
22 department in an amount equal to the fees established by  
23 subdivision (e) of Section 25205.4 for the same size and  
24 type of facility.

25 (g) (1) Except as provided in paragraphs (2) and (3),  
26 a facility treating used oil or solvents, or which engages  
27 in incineration, thermal destruction, or any land disposal  
28 activity, is not eligible for a standardized permit pursuant  
29 to this section.

30 (2) (A) Notwithstanding paragraph (1), an offsite  
31 facility treating solvents is eligible for a standardized  
32 permit pursuant to this section if all of the following  
33 conditions are met:

34 (i) The facility exclusively treats solvent wastes, and is  
35 not required to obtain a permit pursuant to the federal  
36 act.

37 (ii) The solvent wastes that the facility treats are only  
38 the types of solvents generated from dry cleaning  
39 operations.

1 (iii) Ninety percent or more of the solvents that the  
2 facility receives are from dry cleaning operations.

3 (iv) Ninety percent or more of the solvents that the  
4 facility receives are recycled and sold by the facility,  
5 excluding recycling for energy recovery, provided that  
6 the facility does not produce more than 15,000 gallons per  
7 month of recycled solvents.

8 (B) A facility that is eligible for a standardized permit  
9 pursuant to this paragraph is also eligible for the fee  
10 exemption provided in subdivision (d) of Section  
11 25205.12 for any year or reporting period prior to January  
12 1, 1995, if the owner or operator complies with the  
13 notification and application requirements of this section  
14 on or before March 1, 1995.

15 (C) A facility treating solvents pursuant to this  
16 paragraph shall clearly label all recycled solvents as  
17 recycled prior to subsequent sale or distribution.

18 (D) Notwithstanding that a facility eligible for a  
19 standardized permit pursuant to this paragraph meets  
20 the eligibility requirements for a Series C standardized  
21 permit specified in paragraph (3) of subdivision (a), the  
22 facility shall obtain and meet the requirements for a  
23 Series B standardized permit specified in paragraph (2)  
24 of subdivision (a).

25 (E) Notwithstanding any other provision of this  
26 chapter, for purposes of this paragraph, if the recycled  
27 material is to be used for dry cleaning, “recycled” means  
28 the removal of water and inhibitors from waste solvent  
29 and the production of dry cleaning solvent with an  
30 appropriate inhibitor for dry cleaning use. The removal  
31 of inhibitors is not required if all of the solvents received  
32 by the facility that are recycled for dry cleaning use are  
33 from dry cleaners.

34 (3) (A) Notwithstanding paragraph (1), an owner or  
35 operator with a surface impoundment used only to  
36 contain non-RCRA wastes generated onsite, that holds  
37 those wastes for not more than one 30-day period in any  
38 calendar year, and that meets the criteria specified in  
39 paragraphs (i) to (iii), inclusive, may submit a Series C  
40 standardized permit application to the department. A



1 surface impoundment is eligible for operation under the  
2 Series C standardized permit tier if all of the following  
3 requirements are met:

4 (i) The waste and any residual materials are removed  
5 from the surface impoundment within 30 days of the date  
6 the waste was first placed into the surface impoundment.

7 (ii) The owner or operator has, and is in compliance  
8 with, current waste discharge requirements issued by the  
9 appropriate California regional water quality control  
10 board for the surface impoundment.

11 (iii) The owner or operator complies with all  
12 applicable groundwater monitoring requirements of the  
13 regulations adopted by the department pursuant to this  
14 chapter.

15 (B) A facility that is eligible for a standardized permit  
16 pursuant to this paragraph is also eligible for the fee  
17 exemption provided in subdivision (d) of Section  
18 25205.12 for any year or reporting period prior to January  
19 1, 1996, if the owner or operator complies with the  
20 notification and application requirements of this section  
21 on or before March 1, 1996.

22 (h) Facilities operating pursuant to this section shall  
23 comply with Article 4 (commencing with Section  
24 66270.40) of Chapter 20 of Division 4.5 of Title 22 of the  
25 California Code of Regulations.

26 (i) (1) The department shall require an owner or  
27 operator applying for a standardized permit to complete  
28 and file a phase I environmental assessment with the  
29 application. However, if a RCRA facility assessment has  
30 been performed by the department, the assessment shall  
31 be deemed to satisfy the requirement of this subdivision  
32 to complete and file a phase I environmental assessment,  
33 and the facility shall not be required to submit a phase I  
34 environmental assessment with its application.

35 (2) (A) For purposes of this subdivision, the phase I  
36 environmental assessment shall include a preliminary site  
37 assessment, as described in subdivision (b) of Section  
38 25200.14, except that the phase I environmental  
39 assessment shall also include a certification, signed,  
40 except as provided in subparagraph (B), by the owner,

1 and also by the operator if the operator is not the owner,  
2 of the facility and an independent professional engineer,  
3 geologist, or environmental assessor registered in the  
4 state.

5 (B) Notwithstanding subparagraph (A), the  
6 certification for a permanent household waste collection  
7 facility may be signed by any professional engineer,  
8 geologist, or environmental assessor registered in the  
9 state, including, but not limited to, such a person  
10 employed by the governmental entity, but if the facility  
11 owner is not a governmental entity, the engineer,  
12 geologist, or assessor signing the certification shall not be  
13 employed by, or be an agent of, the facility owner.

14 (3) The certification specified in paragraph (2) shall  
15 state whether evidence of a release of hazardous waste or  
16 hazardous constituents has been found.

17 (4) If evidence of a release has been found, the facility  
18 shall complete a detailed site assessment to determine the  
19 nature and extent of any contamination resulting from  
20 the release and shall submit a corrective action plan to the  
21 department, within one year of submittal of the  
22 standardized permit application.

23 (j) The department shall establish an inspection  
24 program to identify, inspect, and bring into compliance  
25 any treatment, storage, or treatment and storage facility  
26 which is eligible for, and is required to obtain, a  
27 standardized hazardous waste facilities permit pursuant  
28 to this section, and which is operating without a permit  
29 or other grant of authorization from the department for  
30 that treatment or storage activity.

31 (k) A treatment, storage, or treatment and storage  
32 facility authorized to operate pursuant to a hazardous  
33 waste facilities permit issued pursuant to Section 25200,  
34 which meets the criteria listed in subdivision (a) for a  
35 standardized permit, may operate pursuant to a Series A,  
36 B, or C standardized permit by completing the  
37 appropriate permit modification procedure specified in  
38 the regulations for such a modification.

39 SEC. 17. Section 25201.9 of the Health and Safety  
40 Code is amended to read:

1 25201.9. (a) Upon the written request of any person,  
2 the department may enter into an agreement with that  
3 person pursuant to which the department will perform  
4 consultative services for the purpose of providing  
5 assistance to the person, or any facility owned or operated  
6 by the person, in complying with this chapter, Chapter  
7 6.8 (commencing with Section 25300), and any  
8 regulations adopted pursuant to those provisions. The  
9 agreement shall require the person to reimburse the  
10 department for its costs of performing the consultative  
11 services pursuant to Article 9.2 (commencing with  
12 Section 25206.1). The agreement may provide for some  
13 or all of the reimbursement to be made in advance of the  
14 performance of the consultative services.

15 (b) The consultative services performed pursuant to  
16 subdivision (a) shall be over and above the routine  
17 functions of the department, and may include, but need  
18 not be limited to, onsite inspections, regulation and  
19 compliance training, and technical consultation.

20 (c) Any reimbursement received for assistance in  
21 complying with this chapter pursuant to this section shall  
22 be placed in the Hazardous Waste Control Account for  
23 disbursement in accordance with Section 25174. Any  
24 reimbursement received for assistance in complying with  
25 Chapter 6.8 (commencing with Section 25300) shall be  
26 deposited in the Toxic Substances Control Account for  
27 expenditure in accordance with Section 25173.6.

28 (d) The consultative services shall be provided subject  
29 to available staff and resources as determined by the  
30 department, and may include, but need not be limited to,  
31 onsite inspections, regulation and compliance training,  
32 and technical consultation.

33 (e) In scheduling limited onsite inspections, priority  
34 shall be given to businesses with fewer than 50 employees.

35 (f) (1) The staff of the department providing  
36 consultation pursuant to this section shall not initiate an  
37 administrative or civil enforcement action, except as  
38 specified in subdivision (g), for violations identified  
39 during a limited onsite inspection conducted pursuant to

1 an agreement at a facility which does not require a permit  
2 pursuant to the federal act.

3 (2) The staff of the department shall require the  
4 owner or operator to correct any identified deficiencies  
5 and violations in accordance with a schedule for  
6 compliance or correction issued by the department.

7 (g) If class I violations, as defined in regulations  
8 adopted by the department, are identified during a  
9 limited onsite inspection, or an owner or operator refuses  
10 or fails to correct any deficiencies or violations within the  
11 timeframe specified in the schedule for compliance or  
12 correction issued by the department pursuant to  
13 subdivision (f), the department may undertake any  
14 further inspection, investigation, or enforcement action  
15 authorized by law.

16 (h) The failure of the department to discover any  
17 particular deficiencies or violations during a limited  
18 onsite inspection shall not preclude the department, or  
19 any other agency, from undertaking a subsequent  
20 enforcement action to address any deficiencies or  
21 violations should they be discovered at a later time.

22 (i) Nothing in this section is intended to limit the  
23 authority of the department to refer criminal violations  
24 to the Attorney General, a district attorney, a county  
25 counsel, or a city attorney.

26 (j) Other than as expressly provided in this section,  
27 nothing in this section is intended to limit or restrict the  
28 authority of the department under any other provision of  
29 this division.

30 (k) This section shall become operative only if the  
31 department adopts regulations defining “class I  
32 violations.”

33 SEC. 18. Section 25204.7 of the Health and Safety  
34 Code is amended to read:

35 25204.7. (a) Notwithstanding any other provision of  
36 law, a generator conducting a treatment activity that is  
37 eligible for operation under a permit-by-rule pursuant to  
38 the department’s regulations, a grant of conditional  
39 authorization, or a grant of conditional exemption  
40 pursuant to this chapter, and who meets the criteria in

1 subdivision (b), is exempt from all of the following  
2 requirements:

3 (1) The requirement for a generator to submit a  
4 notification to the department under Sections 25144.6,  
5 25200.3, and 25201.5 and the regulations adopted by the  
6 department pertaining to a permit-by-rule.

7 (2) The requirement to pay a fee pursuant to Section  
8 25201.14 or 25205.14.

9 (b) To be eligible for an exemption pursuant to this  
10 section, the generator shall meet all of the following  
11 requirements:

12 (1) The generator is located within the jurisdiction of  
13 a certified unified program agency that includes the  
14 publicly owned treatment works that regulates the  
15 generator's activity or unit that is eligible for operation  
16 under a permit-by-rule or a grant of conditional  
17 authorization or conditional exemption, and which has  
18 implemented a unified program pursuant to Chapter 6.11  
19 (commencing with Section 25404) that includes the  
20 following elements:

21 (A) The pretreatment program of the publicly owned  
22 treatment works that regulates the generator.

23 (B) An inspection program that meets the  
24 requirements of Section 25201.4 and that inspects the  
25 generator for compliance with the requirements of this  
26 section.

27 (2) The generator meets all other requirements of this  
28 chapter and the department's regulations pertaining to  
29 permit-by-rule, conditional authorization, or conditional  
30 exemption, whichever is applicable.

31 (3) The generator's activity or unit that is eligible for  
32 operation under a permit-by-rule or a grant of conditional  
33 authorization or conditional exemption is within the  
34 scope of the hazardous waste element of the unified  
35 program, as specified in paragraph (1) of subdivision (c)  
36 of Section 25404.

37 SEC. 19. Section 25205.4 of the Health and Safety  
38 Code is amended to read:

39 25205.4. (a) The base rate for the 1997 reporting  
40 period for the facility fee imposed by Section 25205.2 is

1 nineteen thousand seven hundred sixty-one dollars  
2 (\$19,761). Commencing with the 1998 reporting period,  
3 and for each reporting period thereafter, the board shall  
4 adjust the base rate annually to reflect increases or  
5 decreases in the cost of living during the prior fiscal year,  
6 as measured by the Consumer Price Index issued by the  
7 Department of Industrial Relations or by a successor  
8 agency.

9 (b) The determination of the facility fee pursuant to  
10 this section, including the redetermination of the base  
11 rate, is exempt from Chapter 3.5 (commencing with  
12 Section 11340) of Part 1 of Division 3 of Title 2 of the  
13 Government Code.

14 (c) Except as provided in subdivision (e), in  
15 computing the facility fees, all of the following shall apply:

16 (1) The fee to be paid by a ministorage facility shall  
17 equal 25 percent of the base facility rate.

18 (2) The fee to be paid by a small storage facility shall  
19 equal the base facility rate.

20 (3) The fee to be paid by a large storage facility shall  
21 equal twice the base facility rate.

22 (4) The fee to be paid by a minitreatment facility shall  
23 equal 50 percent of the base facility rate.

24 (5) The fee to be paid by a small treatment facility shall  
25 equal twice the base facility rate.

26 ~~(6) The fee to be paid by a large treatment facility shall~~  
27 ~~equal three times the base facility rate.~~

28 ~~(7)~~

29 *(6) The fee to be paid by a large onsite treatment*  
30 *facility shall equal three times the base facility rate.*

31 *(7) The fee to be paid by a large offsite treatment*  
32 *facility shall be as follows:*

33 *(A) The annual facility fees for 1998, 1999, and 2000*  
34 *shall equal 2.25 times the base facility rate.*

35 *(B) Beginning with the annual facility fee for 2001, the*  
36 *annual facility fee shall equal three times the base facility*  
37 *rate.*

38 (8) The fee to be paid by a disposal facility shall equal  
39 10 times the base facility rate.

40 ~~(8)~~

1 (9) (A) The fee to be paid by a facility with a  
2 postclosure permit shall be five thousand seven hundred  
3 twenty-five dollars (\$5,725) annually for a small facility,  
4 eleven thousand four hundred fifty dollars (\$11,450)  
5 annually for a medium facility, and seventeen thousand  
6 one hundred seventy-five dollars (\$17,175) for a large  
7 facility during the first five years of the postclosure  
8 period. The fee to be paid by a facility with a postclosure  
9 permit during the remaining years of the postclosure care  
10 period shall be three thousand fifty dollars (\$3,050)  
11 annually for a small facility, six thousand one hundred  
12 dollars (\$6,100) annually for a medium facility, and ten  
13 thousand three hundred dollars (\$10,300) annually for a  
14 large facility.

15 (B) The fees required by subparagraph (A) shall be  
16 reduced by 50 percent for any facility for which an  
17 agency, other than the department, is the lead agency  
18 pursuant to paragraph (1) of subdivision (b) of Section  
19 25204.6.

20 (d) If a facility falls into more than one category listed  
21 in either subdivision (c) or (e), or any combination  
22 thereof, or multiple operations under a single hazardous  
23 waste facilities permit or grant of interim status fall into  
24 more than one category listed in subdivision (c) or (e),  
25 or any combination thereof, the facility operator shall pay  
26 only the rate for the facility category which is the highest  
27 rate.

28 (e) Notwithstanding subdivision (c), the facility fee  
29 for a facility that has been issued a standardized permit  
30 shall be as follows:

31 (1) The fee to be paid for a facility that has been issued  
32 a Series A standardized permit shall be eleven thousand  
33 seven hundred thirty dollars (\$11,730).

34 (2) The fee to be paid for a facility that has been issued  
35 a Series B standardized permit shall be five thousand four  
36 hundred ninety-seven dollars (\$5,497).

37 (3) Except as specified in paragraph (4), the fee to be  
38 paid for a facility that has been issued a Series C  
39 standardized permit shall be four thousand six hundred  
40 seventeen dollars (\$4,617).

(4) The fee for a facility that has been issued a Series C standardized permit is two thousand three hundred eight dollars (\$2,308) if the facility meets all of the following conditions:

(A) The facility treats not more than 1,500 gallons of liquid hazardous waste and not more than 3,000 pounds of solid hazardous waste in any calendar month.

(B) The total facility storage capacity does not exceed 15,000 gallons of liquid hazardous waste and 30,000 pounds of solid hazardous waste.

(C) If the facility both treats and stores hazardous waste, the facility does not exceed the volume limitations specified in subparagraphs (A) and (B) for each individual activity.

(f) The fee imposed pursuant to this section shall be paid in accordance with Part 22 (commencing with Section 43001) of Division 2 of the Revenue and Taxation Code.

SEC. 20. Section 25205.5 of the Health and Safety Code is amended to read:

25205.5. (a) In addition to the fee imposed pursuant to Section 25174.1, every generator of hazardous waste, in the amounts specified in subdivision (c), shall pay the board a generator fee for each generator site for each calendar year, or portion thereof, unless the generator has paid a facility fee or received a credit, as specified in Section 25205.2, for each specific site, for the calendar year for which the generator fee is due.

(b) The base fee rate for the fee imposed pursuant to subdivision (a) is two thousand seven hundred forty-eight dollars (\$2,748).

(c) (1) Each generator who generates an amount equal to, or more than, five tons, but less than 25 tons, of hazardous waste during the prior calendar year shall pay 5 percent of the base rate.

(2) Each generator who generates an amount equal to, or more than, 25 tons, but less than 50 tons, of hazardous waste during the prior calendar year shall pay 40 percent of the base rate.



(3) Each generator who generates an amount equal to, or more than, 50 tons, but less than 250 tons, of hazardous waste during the prior calendar year shall pay the base rate.

(4) Each generator who generates an amount equal to, or more than, 250 tons, but less than 500 tons, of hazardous waste during the prior calendar year shall pay five times the base rate.

(5) Each generator who generates an amount equal to, or more than, 500 tons, but less than 1,000 tons, of hazardous waste during the prior calendar year shall pay 10 times the base rate.

(6) Each generator who generates an amount equal to, or more than, 1,000 tons, but less than 2,000 tons, of hazardous waste during the prior calendar year shall pay 15 times the base rate.

(7) Each generator who generates an amount equal to, or more than, 2,000 tons of hazardous waste during the prior calendar year shall pay 20 times the base rate.

(d) The base rate established pursuant to subdivision (b) was the base rate for the 1997 calendar year and the board shall adjust the base rate annually to reflect increases or decreases in the cost of living, during the prior fiscal year, as measured by the Consumer Price Index issued by the Department of Industrial Relations or by a successor agency.

(e) The establishment of the annual operating fee pursuant to this section is exempt from Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code.

(f) The following materials are not hazardous wastes for purposes of this section:

(1) Hazardous materials which are recycled, and used onsite, and are not transferred offsite.

(2) Aqueous waste treated in a treatment unit operating, or which subsequently operates, pursuant to a permit-by-rule, or pursuant to Section 25200.3 or 25201.5. However, hazardous waste generated by a treatment unit treating waste pursuant to a permit-by-rule, by a unit which subsequently obtains a permit-by-rule, or other

1 authorization pursuant to Section 25200.3 or 25201.5 is  
2 hazardous waste for purposes of this section.

3 (g) The fee imposed pursuant to this section shall be  
4 paid in accordance with Part 22 (commencing with  
5 Section 43001) of Division 2 of the Revenue and Taxation  
6 Code.

7 (h) (1) The amendment of this section made by  
8 Chapter 1125 of the Statutes of 1991 does not constitute  
9 a change in, but is declaratory of, existing law.

10 (2) The amendment of subdivision (a) of this section  
11 made by Chapter 259 of the Statutes of 1996 does not  
12 constitute a change in, but is declaratory of, existing law.

13 SEC. 21. Section 25205.6 of the Health and Safety  
14 Code is amended to read:

15 25205.6. (a) On or before November 1 of each year,  
16 the department shall provide the board with a schedule  
17 of two digit SIC codes, as defined in subdivision (p) of  
18 Section 25501, as established by the United States  
19 Department of Commerce, that consists of the types of  
20 corporations that use, generate, store, or conduct  
21 activities in this state related to hazardous materials, as  
22 defined in subdivision (k) of Section 25501, including, but  
23 not limited to, hazardous waste.

24 (b) Each corporation of a type identified in the  
25 schedule adopted pursuant to subdivision (a) shall pay an  
26 annual fee, which shall be set at two hundred dollars  
27 (\$200) for those corporations with 50 or more employees,  
28 but less than 75 employees, three hundred fifty dollars  
29 (\$350) for those corporations with 75 or more employees,  
30 but less than 100 employees, seven hundred dollars  
31 (\$700) for those corporations with 100 or more  
32 employees, but less than 250 employees, one thousand  
33 five hundred dollars (\$1,500) dollars for those  
34 corporations with 250 or more employees, but less than  
35 500 employees, two thousand eight hundred dollars  
36 (\$2,800) for those corporations with 500 or more  
37 employees, but less than 1,000 employees, and nine  
38 thousand five hundred dollars (\$9,500) for those  
39 corporations with 1,000 or more employees.



1 (c) The fee imposed pursuant to this section shall be  
2 paid by each corporation that is identified in the schedule  
3 adopted pursuant to subdivision (a) in accordance with  
4 Part 22 (commencing with Section 43001) of Division 2 of  
5 the Revenue and Taxation Code and shall be deposited in  
6 the Toxic Substances Control Account. The revenues  
7 shall be available, upon appropriation by the Legislature,  
8 for the purposes specified in subdivision (b) of Section  
9 25173.6.

10 (d) For purposes of this section, the number of  
11 employees employed by a corporation is the number of  
12 persons employed in this state for more than 500 hours  
13 during the calendar year preceding the calendar year in  
14 which the fee is due.

15 (e) The fee rates specified in subdivision (b) are the  
16 rates for the 1998 calendar year. Beginning with the 1999  
17 calendar year, and for each year thereafter, the board  
18 shall adjust the rates annually to reflect increases or  
19 decreases in the cost of living during the prior fiscal year,  
20 as measured by the Consumer Price Index issued by the  
21 Department of Industrial Relations or by a successor  
22 agency.

23 (f) Pursuant to paragraph (3) of subsection (c) of  
24 Section 104 of the federal Comprehensive  
25 Environmental Response, Compensation, and Liability  
26 Act of 1980, as amended (42 U.S.C. Sec. 9404(c)(3)), the  
27 state is obligated, as authorized by paragraph (2) of  
28 subdivision (a) of Section 25351, to pay specified costs of  
29 removal and remedial actions carried out pursuant to the  
30 federal Comprehensive Environmental Response,  
31 Compensation, and Liability Act of 1980, as amended (42  
32 U.S.C. Sec. 9601, et seq.). The fee rates specified in  
33 subdivision (b) are intended to provide sufficient  
34 revenues to fund the purposes of subdivision (b) of  
35 Section 25173.6, including appropriations in any given  
36 fiscal year of three million three hundred thousand  
37 dollars (\$3,300,000) to fund the state's obligation pursuant  
38 to paragraph (3) of subsection (c) of Section 104 of the  
39 federal Comprehensive Environmental Response,  
40 Compensation, and Liability Act of 1980, as amended (42

1 U.S.C. Sec. 9404(c)(3)). If the department determines  
2 that the state's obligation under paragraph (3) of  
3 subsection (c) of Section 104 of the federal  
4 Comprehensive Environmental Response,  
5 Compensation, and Liability Act of 1980, as amended (42  
6 U.S.C. Sec. 9404(c)(3)) will exceed three million three  
7 hundred thousand dollars (\$3,300,000) in any fiscal year,  
8 the department shall report that determination to the  
9 Legislature in the Governor's Budget. If, as part of the  
10 Budget Act deliberations, the Legislature concurs with  
11 the department's determination, the Legislature shall  
12 specify in the annual Budget Act those pro rata changes  
13 to the fee rates specified in subdivision (b) that will  
14 increase revenues in the next calendar year as necessary  
15 to fund the state's increased obligations. However, the  
16 Legislature shall not specify fee rates in the annual  
17 Budget Act that increase revenues in an amount greater  
18 than eight million two hundred thousand dollars  
19 (\$8,200,000) above the revenues provided by the fee rates  
20 specified in subdivision (b). Any changes in the fee rates  
21 approved by the Legislature in the annual Budget Act  
22 pursuant to this subdivision shall have effect only on the  
23 fee payment that is due and payable by the end of  
24 February in the fiscal year for which that annual Budget  
25 Act is enacted.

26 (g) This section does not apply to nonprofit  
27 corporations primarily engaged in the provision of  
28 residential social and personal care for children, the aged,  
29 and special categories of persons with some limits on their  
30 ability for self-care, as described in SIC Code 8361 of the  
31 Standard Industrial Classification (SIC) Manual  
32 published by the United States Office of Management  
33 and Budget, 1987 Edition.

34 SEC. 22. Section 25205.7 of the Health and Safety  
35 Code is amended to read:

36 25205.7. (a) (1) Except as otherwise provided in  
37 this section, any person who applies for, or requests, one  
38 of the following shall enter into a written agreement with  
39 the department pursuant to which that person shall  
40 reimburse the department, pursuant to Article 9.2

1 (commencing with Section 25206.1), for the costs  
2 incurred by the department in processing the application  
3 or responding to the request:

4 (A) A new hazardous waste facilities permit, including  
5 a standardized permit.

6 (B) A hazardous waste facilities permit for  
7 postclosure.

8 (C) A renewal of an existing hazardous waste facilities  
9 permit, including a standardized permit or postclosure  
10 permit.

11 (D) A class 2 or class 3 modification of an existing  
12 hazardous waste facilities permit or grant of interim  
13 status, including a standardized permit or grant of  
14 interim status or a postclosure permit.

15 (E) A variance.

16 (F) A waste classification determination.

17 (2) Any agreement required pursuant to paragraph  
18 (1) may provide for some, or all, of the reimbursement to  
19 be made in advance of the processing of the application  
20 or the response to the request.

21 (3) This subdivision does not apply to any application  
22 or request submitted to the department prior to July 1,  
23 1998. Any person who submitted such an application or  
24 request shall pay the applicable fee, if not already paid,  
25 for the application or request as required by this chapter  
26 as it read prior to January 1, 1998, unless the department  
27 and the applicant or requester mutually agree to enter  
28 into a reimbursement agreement in lieu of any unpaid  
29 portion of the required fee.

30 (b) The department shall assess a fee equal to the  
31 department's costs in reviewing and overseeing any  
32 corrective action program described in the application  
33 for a standardized permit pursuant to subparagraph (C)  
34 of paragraph (2) of subdivision (c) of Section 25201.6, and  
35 in reviewing and overseeing any corrective action work  
36 undertaken at the facility pursuant to that corrective  
37 action program.

38 (c) Any reimbursements received pursuant to this  
39 section shall be placed in the Hazardous Waste Control

1 Account for appropriation in accordance with Section  
2 25174.

3 (d) (1) In lieu of entering into a reimbursement  
4 agreement with the department pursuant to subdivision  
5 (a), any person who applies for a new permit, a permit for  
6 postclosure, a renewal of an existing permit, or a class 2  
7 or class 3 permit modification may instead elect to pay a  
8 fee as follows:

9 (A) A person submitting a hazardous waste facilities  
10 permit application for a land disposal facility shall pay one  
11 hundred four thousand one hundred eighty-seven dollars  
12 (\$104,187) for a small facility, two hundred twenty-two  
13 thousand one hundred eighty-three dollars (\$222,183) for  
14 a medium facility, and three hundred eighty-one  
15 thousand six hundred two dollars (\$381,602) for a large  
16 facility.

17 (B) A person submitting a hazardous waste facilities  
18 permit application for any incinerator shall pay sixty-two  
19 thousand seven hundred sixty-two dollars (\$62,762) for a  
20 small facility, one hundred thirty-three thousand sixty  
21 dollars (\$133,060) for a medium facility, and two hundred  
22 twenty-eight thousand four hundred fifty-eight dollars  
23 (\$228,458) for a large facility.

24 (C) Except as provided in subparagraph (D), a person  
25 submitting a hazardous waste facility permit application  
26 for a storage facility, a treatment facility, or a storage and  
27 treatment facility shall pay twenty-one thousand three  
28 hundred forty dollars (\$21,340) for a small facility,  
29 thirty-eight thousand nine hundred thirteen dollars  
30 (\$38,913) for a medium facility, and seventy-five  
31 thousand three hundred seventeen dollars (\$75,317) for  
32 a large facility.

33 (D) A person submitting an application for a  
34 standardized permit for a storage facility, a treatment  
35 facility, or a storage and treatment facility, as specified in  
36 Section 25201.6, shall pay thirty-two thousand fifty-two  
37 dollars (\$32,052) for a Series A standardized permit,  
38 twenty thousand eleven dollars (\$20,011) for a Series B  
39 standardized permit, and five thousand three hundred  
40 thirty-two dollars (\$5,332) for a Series C standardized

1 permit. The board shall assess the fees specified in this  
2 subparagraph, in accordance with paragraph (2), based  
3 upon the classifications specified in subdivision (a) of  
4 Section 25201.6 at the facility pursuant to that corrective  
5 action program.

6 (E) (i) A person submitting a hazardous waste  
7 facilities permit application for a transportable treatment  
8 unit shall pay sixteen thousand three hundred twenty  
9 dollars (\$16,320) for a small unit, thirty-seven thousand six  
10 hundred fifty-seven dollars (\$37,657) for a medium unit,  
11 and seventy-five thousand three hundred seventeen  
12 dollars (\$75,317) for a large unit.

13 (ii) Notwithstanding clause (i), the fee for any  
14 application for a new permit, permit modification, or  
15 permit renewal for a transportable treatment unit, that  
16 was pending before the department as of January 1, 1996,  
17 shall be determined according to the type of permit  
18 authorizing operation of that unit, as provided by  
19 subdivision (d) of Section 25200.2 or the regulations  
20 adopted pursuant to subdivision (a) of Section 25200.2.  
21 Any standardized permit issued to the operator of a  
22 transportable treatment unit after January 1, 1996, that  
23 succeeds a full hazardous waste facilities permit issued by  
24 the department prior to January 1, 1996, in accordance  
25 with subdivision (d) of Section 25200.2 or the regulations  
26 adopted pursuant to subdivision (a) of Section 25200.2,  
27 shall not be considered to be a new hazardous waste  
28 facilities permit.

29 (F) A person submitting a hazardous waste facilities  
30 permit application for a postclosure permit shall pay a fee  
31 of ten thousand forty dollars (\$10,040) for a small facility,  
32 twenty-two thousand five hundred ninety-six dollars  
33 (\$22,596) for a medium facility, and thirty-seven  
34 thousand six hundred fifty-seven dollars (\$37,657) for a  
35 large facility.

36 (G) A person submitting an application for one or  
37 more class 2 permit modifications, including a class 2  
38 modification to a standardized permit, shall pay a fee  
39 equal to 20 percent of the fee for a new permit for that  
40 facility for each unit directly impacted by the

1 modifications, up to a maximum of 40 percent for each  
2 application, except that each person who applies for one  
3 or more class 2 permit modifications for a land disposal  
4 facility or an incinerator shall pay a fee equal to 15 percent  
5 of the fee for a new permit for that facility for each unit  
6 directly impacted by the modifications, up to a maximum  
7 of 30 percent for each application.

8 (H) A person submitting an application for one or  
9 more class 3 permit modifications, including a class 3  
10 modification to a standardized permit, shall pay a fee  
11 equal to 40 percent of the fee for a new permit for that  
12 facility for each unit directly impacted by the  
13 modifications, up to a maximum of 80 percent for each  
14 application, except that a person who applies for one or  
15 more class 3 permit modifications for a land disposal  
16 facility or an incinerator shall pay a fee equal to 30 percent  
17 of the fee for a new permit for that facility for each unit  
18 directly impacted by the modifications, up to a maximum  
19 of 60 percent for each application.

20 (I) A person who submits an application for renewal of  
21 any existing permit shall pay an amount equal to the fee  
22 that would have been assessed had the person requested  
23 the same changes in a modification application, but not  
24 less than one-half the fee required for a new permit.

25 (J) A person who submits a single application for a  
26 facility that falls within more than one fee category shall  
27 pay only the higher fee.

28 (2) The fees required by paragraph (1) shall be  
29 assessed by the board upon application to the  
30 department. For a facility operating pursuant to a grant  
31 of interim status, the submittal of the application shall be  
32 the submittal of the Part B application in accordance with  
33 regulations adopted by the department. The fee shall be  
34 nonrefundable, even if the application is withdrawn or  
35 denied. The department shall provide the board with any  
36 information that is necessary to assess fees pursuant to this  
37 section. The fee shall be collected in accordance with Part  
38 22 (commencing with Section 43001) of Division 2 of the  
39 Revenue and Taxation Code, and deposited into the  
40 Hazardous Waste Control Account.



(3) The amounts stated in this subdivision are the base rates for the 1997 calendar year. Thereafter, the fees shall be adjusted annually by the board to reflect increases or decreases in the cost of living, during the prior fiscal year, as measured by the Consumer Price Index issued by the Department of Industrial Relations, or a successor agency.

(4) Except as provided in paragraph (5), for purposes of this section, and notwithstanding Section 25205.1, any facility or unit is “small” if it manages 0.5 tons (1,000 pounds) or less of hazardous waste during any one month of the state’s current fiscal year, “medium” if it manages more than 0.5 tons (1,000 pounds), but less than 1,000 tons, of hazardous waste during any one month of the state’s current fiscal year, and “large” if it manages 1,000 or more tons of hazardous waste during any one month of the state’s current fiscal year.

(5) For purposes of subparagraph (F) of paragraph (1) of this subdivision and paragraph (8) of subdivision (c) of Section 25205.4, any facility or unit is “small” if 0.5 tons (1,000 pounds) or less of hazardous waste remain after closure, “medium” if more than 0.5 tons (1,000 pounds), but less than 1,000 tons of hazardous waste remain after closure, and “large” if 1,000 or more tons of hazardous waste remain after closure.

(e) Subdivision (a) does not apply to any variance granted pursuant to Article 4 (commencing with Section 66263.40) of Chapter 13 of Division 4.5 of Title 22 of the California Code of Regulations.

(f) Subdivisions (a) and (d) do not apply to a permit modification resulting from a revision of a facility’s or operator’s closure plan if the facility is exempted from fees pursuant to subdivision (e) of Section 25205.3, or if the operator is subject to paragraph (2) or (3) of subdivision (d) of Section 25205.2.

(g) (1) Except as provided in paragraphs (3) and (4), subdivisions (a) and (d) do not apply to any permit or variance to operate a research, development, and demonstration facility, if the duration of the permit or variance is not longer than one year, unless the permit or

1 variance is renewed pursuant to the regulations adopted  
2 by the department.

3 (2) For purposes of this section, a “research,  
4 development, and demonstration facility” is a facility  
5 which proposes to utilize an innovative and experimental  
6 hazardous waste treatment technology or process for  
7 which regulations prescribing permit standards have not  
8 been adopted.

9 (3) The exemption provided by this subdivision does  
10 not apply to a facility which operates as a medium or large  
11 multiuser offsite commercial hazardous waste facility and  
12 which does not otherwise possess a hazardous waste  
13 facilities permit pursuant to Section 25200.

14 (4) The fee exemption authorized pursuant to  
15 paragraph (1) shall be effective for a total duration of not  
16 more than two years.

17 (h) Subdivisions (a) and (d) do not apply to any of the  
18 following:

19 (1) Any variance issued to a public agency to transport  
20 wastes for purposes of operating a household hazardous  
21 waste collection facility, or to transport waste from a  
22 household hazardous waste collection facility, which  
23 receives household hazardous waste or hazardous waste  
24 from conditionally exempted small quantity generators  
25 pursuant to Article 10.8 (commencing with Section  
26 25218).

27 (2) A permanent household hazardous waste  
28 collection facility.

29 (3) Any variance issued to a public agency to conduct  
30 a collection program for agricultural wastes.

31 (i) Notwithstanding subdivisions (a) and (b), the  
32 department shall not assess any fees or seek any  
33 reimbursement for the department’s costs in reviewing  
34 and overseeing any preliminary site assessment in  
35 conjunction with a hazardous waste facilities permit  
36 application.

37 (j) The changes made in this section by the act adding  
38 this subdivision do not require amendment of, or  
39 otherwise affect, any agreement entered into prior to July  
40 1, 1998, pursuant to which any person has agreed to

1 reimburse the department for the costs incurred by the  
2 department in processing applications, responding to  
3 requests, or otherwise providing other services pursuant  
4 to this chapter.

5 SEC. 23. Section 25205.8 of the Health and Safety  
6 Code is repealed.

7 SEC. 24. Section 25205.9 of the Health and Safety  
8 Code is repealed.

9 SEC. 25. Section 25205.12 of the Health and Safety  
10 Code is amended to read:

11 25205.12. (a) The owner of a hazardous waste facility  
12 authorized to operate pursuant to a permit-by-rule,  
13 authorized under a grant of conditional authorization  
14 pursuant to Section 25200.3, exempted pursuant to  
15 subdivision (a) or (c) of Section 25201.5, or exempted  
16 pursuant to Section 25144.6 or 25201.14 is exempt from the  
17 facility fee specified in Section 25205.2 for any activities  
18 authorized by the permit-by-rule, under a grant of  
19 conditional authorization pursuant to Section 25200.3,  
20 exempted pursuant to subdivision (a) or (c) of Section  
21 25201.5, or exempted pursuant to Section 25144.6 or  
22 25201.14 at that facility for any year or reporting period  
23 during which the facility is operating.

24 (b) The retroactive portion of the facility fee  
25 exemption provided by subdivision (a) does not apply to  
26 any facility that was authorized by the department to  
27 operate on or before June 1, 1991, for any fees paid or  
28 billed prior to September 1, 1992.

29 (c) The operator of a hazardous waste facility  
30 authorized by the department to clean and recycle  
31 excavated underground storage tanks is exempt from the  
32 facility fee specified in Section 25205.2 with regard to  
33 those activities conducted before January 1, 1994, and  
34 those activities conducted after that date, until the  
35 effective date of a regulation adopted by the department  
36 governing the statewide requirements for the issuance of  
37 a permit for tank cleaning and recycling facilities.

38 (d) The operator of a hazardous waste facility  
39 operating pursuant to a standardized permit or a grant of  
40 interim status, as specified in Section 25201.6, is exempt

1 from the facility fee specified in Sections 25205.2 and  
2 25205.4 for any year or reporting period prior to January  
3 1, 1993, during which the facility operated, if the  
4 hazardous waste treatment or storage activity was  
5 conducted prior to January 1, 1993, and the owner or  
6 operator is in compliance with the notification and  
7 application requirements of Section 25201.6, as amended  
8 in the 1993–94 Regular Session of the Legislature, or as  
9 amended thereafter, and either of the following  
10 circumstances apply:

11 (1) The owner or operator was not authorized by the  
12 department before July 1, 1993, to conduct the eligible  
13 treatment or storage activity.

14 (2) The owner or operator did not pay a hazardous  
15 waste facility fee, as specified in Section 25205.2, for that  
16 year or reporting period prior to July 1, 1993, for the  
17 facility that is the subject of the standardized permit.

18 SEC. 26. Section 25205.14 of the Health and Safety  
19 Code is amended to read:

20 25205.14. (a) Except as provided in Section 25404.5,  
21 the owner or operator of a facility or transportable  
22 treatment unit operating pursuant to a permit-by-rule  
23 shall pay a fee to the board per facility or transportable  
24 treatment unit for each reporting period, or portion  
25 thereof. The fee for the 1997 reporting period shall be  
26 nine hundred fifty-eight dollars (\$958). Until July 1, 1998,  
27 the owner or operator of a facility or transportable  
28 treatment unit operating pursuant to a permit-by-rule  
29 shall also pay a fee in the amount of 50 percent of the fee  
30 specified in this subdivision for each modification of the  
31 notification required by Sections 67450.2 and 67450.3 of  
32 Title 22 of the California Code of Regulations, as those  
33 sections read on January 1, 1995, or as those sections may  
34 subsequently be amended. Thereafter, the fee shall be  
35 adjusted annually by the board to reflect increases and  
36 decreases in the cost of living, as measured by the  
37 Consumer Price Index issued by the Department of  
38 Industrial Relations or a successor agency. The reporting  
39 period shall begin January 1 of each calendar year. On or  
40 before January 31 of each calendar year, the department

1 shall notify the board of all known owners or operators  
2 operating pursuant to a permit-by-rule who are not  
3 exempted from this fee pursuant to Section 25404.5. The  
4 department shall also notify the board of any owner or  
5 operator authorized to operate pursuant to a  
6 permit-by-rule, who is not exempted from this fee  
7 pursuant to Section 25404.5, within 60 days after the  
8 owner or operator is authorized.

9 (b) Except as provided in Section 25404.5, a generator  
10 operating under a grant of conditional authorization  
11 pursuant to Section 25200.3 shall pay a fee to the board per  
12 facility for each reporting period, or portion thereof,  
13 unless the generator is subject to a fee under a  
14 permit-by-rule. The fee for the 1997 reporting period  
15 shall be nine hundred fifty-eight dollars (\$958).  
16 Thereafter, the fee shall be adjusted annually by the  
17 board to reflect increases and decreases in the cost of  
18 living, during the prior fiscal year, as measured by the  
19 Consumer Price Index issued by the Department of  
20 Industrial Relations or a successor agency. The reporting  
21 period shall begin January 1 of each calendar year. On or  
22 before January 31 of each calendar year, the department  
23 shall notify the board of all known generators operating  
24 pursuant to a grant of conditional authorization under  
25 Section 25200.3 who are not exempted from this fee  
26 pursuant to Section 25404.5. The department shall also  
27 notify the board of any generator authorized to operate  
28 under a grant of conditional authorization, who is not  
29 exempted from this fee pursuant to Section 25404.5,  
30 within 60 days of the receipt of notification.

31 (c) Except as provided in Section 25404.5, a generator  
32 performing treatment conditionally exempted pursuant  
33 to Section 25144.6 or subdivision (a) or (c) of Section  
34 25201.5 shall pay thirty-eight dollars (\$38) to the board  
35 per facility for each reporting period, unless that  
36 generator is subject to a fee under a permit-by-rule or a  
37 conditional authorization pursuant to Section 25200.3.  
38 Until July 1, 1998, a generator performing treatment  
39 conditionally exempted pursuant to Section 25144.6 or  
40 subdivision (a) or (c) of Section 25201.5 shall pay one

1 hundred dollars (\$100) to the board per facility for the  
2 initial operating period, or portion thereof, unless that  
3 generator is subject to a fee under a permit-by-rule or a  
4 conditional authorization pursuant to Section 25200.3.  
5 The reporting period shall begin January 1 of each  
6 calendar year. On or before January 31 of each calendar  
7 year, the department shall notify the board of all known  
8 facilities performing treatment conditionally exempted  
9 by Section 25144.6 or subdivision (a) or (c) of Section  
10 25201.5 who are not exempted from this fee pursuant to  
11 Section 25404.5. The department shall also notify the  
12 board of any generator who notifies the department that  
13 the generator is conducting a conditionally exempt  
14 treatment operation, and who is not exempted from this  
15 fee pursuant to Section 25404.5, within 60 days of the  
16 receipt of the notification.

17 (d) The fees imposed pursuant to this section shall be  
18 paid in accordance with Part 22 (commencing with  
19 Section 43001) of Division 2 of the Revenue and Taxation  
20 Code.

21 SEC. 27. Section 25205.15 of the Health and Safety  
22 Code is amended to read:

23 25205.15. (a) Except for the first four manifests used  
24 in a calendar year by a business with less than 100  
25 employees, and except as provided in subdivision (b), the  
26 department shall impose a fee of twelve dollars (\$12) for  
27 each California Uniform Hazardous Waste Manifest form  
28 used on or before June 30, 1998, by any person in the  
29 following manner:

30 (1) The Governor may, in his or her discretion, order  
31 the department to refund three-quarters of the amount  
32 of manifest fees paid on manifests used during the 1991  
33 calendar year.

34 (2) On and after the 1992 calendar year, for all  
35 manifests used on or before June 30, 1998, the manifest fee  
36 shall be assessed on all manifests used in the calendar year  
37 ending prior to the start of the fiscal year in which the  
38 billing occurs.

39 (b) The manifest fee for any manifest that is used on  
40 or before June 30, 1998, solely for wastes that are to be

1 recycled is six dollars (\$6) and the total amount of  
2 manifest fees paid in a calendar year for these manifests  
3 shall not exceed five thousand dollars (\$5,000) for each  
4 hazardous waste identification number issued either by  
5 the department or the Environmental Protection  
6 Agency.

7 (c) On and after June 30, 1998, in addition to any fees  
8 to cover printing and distribution costs, the department  
9 shall impose a manifest fee of seven dollars and fifty cents  
10 (\$7.50) for each California Hazardous Waste Manifest  
11 form used after June 30, 1998, by any person, in the  
12 following manner:

13 ~~(1) The manifest fee shall~~

14 *(1) Except as provided in paragraph (2), on and after*  
15 *July 1, 1998, the department shall bill generators for each*  
16 *California Uniform Hazardous Waste Manifest form,*  
17 *manifest number, or electronic equivalent used after*  
18 *June 30, 1998. The billing frequency specified by the*  
19 *department may range from monthly to quarterly, with*  
20 *the payment by the generator required within 30 days*  
21 *from the date of receipt of the billing, and shall be*  
22 *determined based on consultation with the regulated*  
23 *community. In preparing the bills, the department shall*  
24 *distinguish between manifests used solely for recycled*  
25 *hazardous wastes and those used for nonrecycled*  
26 *hazardous wastes.*

27 *(2) On July 1, 2000, the department shall determine if*  
28 *revenues from the manifest fee as collected pursuant to*  
29 *paragraph (1) will equal or exceed one million seven*  
30 *hundred thousand dollars (\$1,700,000) for the 1999–2000*  
31 *fiscal year. If the department determines that the*  
32 *manifest fee revenues will not equal or exceed one*  
33 *million seven hundred thousand dollars (\$1,700,000) for*  
34 *the 1999–2000 fiscal year, the manifest fee shall instead,*  
35 *commencing July 1, 2000, be collected at the time of*  
36 *original sale of the manifest or distribution of manifest*  
37 *numbers or electronic equivalent to users by the*  
38 *department for all manifests that will be used after June*  
39 *30, 1998.*

40 ~~(2)~~

1 (3) The manifest fee shall not be collected on the use  
2 of California Hazardous Waste Recycling Manifests that  
3 are used solely for hazardous wastes that are recycled.

4 ~~(3)–~~

5 (4) On or before June 30, 1998, the department shall  
6 implement a system for the use of manifests that, after  
7 that date, distinguishes between recycling manifests used  
8 solely for hazardous wastes that are to be recycled and  
9 general manifests that may be used for transporting waste  
10 for any purpose.

11 ~~(4) The department shall implement the manifest fee~~  
12 ~~imposed pursuant to this subdivision in accordance with~~  
13 ~~all or the following requirements:~~

14 ~~(A)–~~

15 (5) If a person uses a recycling manifest that is  
16 designated for recycled hazardous wastes for other types  
17 of hazardous waste, the person shall pay the manifest fee  
18 provided for in this subdivision and an additional error  
19 correction fee of twenty dollars (\$20) per manifest, as  
20 required pursuant to Section 25160.5. However, the  
21 department shall provide the manifest user with a  
22 reasonable opportunity to notify the department of any  
23 incorrect use of the recycling manifest and provide the  
24 department with the appropriate manifest fee payment  
25 without additional fines, penalties, or payment of the  
26 error correction fee.

27 ~~(B) The department shall establish a reasonable~~  
28 ~~schedule for full or partial credit or reimbursement of~~  
29 ~~manifest fees paid for manifests or manifest numbers that~~  
30 ~~are not used and that are returned to the department~~  
31 ~~within a reasonable time period, and that takes into~~  
32 ~~account the department's costs for processing these~~  
33 ~~requested reimbursements or credits.~~

34 ~~(5)–~~

35 (6) The department may adopt regulations to  
36 implement and administer the manifest fee system  
37 imposed pursuant to this subdivision.

38 (d) (1) The department shall expend the sum of one  
39 million dollars (\$1,000,000) from the manifest fees  
40 deposited in the Hazardous Waste Control Account, upon



1 appropriation by the Legislature in the annual budget  
2 act, to cover the one-time costs of implementing changes  
3 to the hazardous waste manifest tracking system during  
4 the 1998–99 fiscal year.

5 (2) On and after July 1, 1999, commencing with  
6 1999–2000 fiscal year and annually thereafter, the  
7 department shall expend, upon appropriation by the  
8 Legislature in the annual budget act, not less than ~~eight~~  
9 ~~hundred thousand dollars (\$800,000), from the manifest~~  
10 *one million fifty thousand dollars (\$1,050,000) from the*  
11 *manifest* fees, deposited in the Hazardous Waste Control  
12 Account, to establish a program to encourage hazardous  
13 waste generators to implement ~~exemplary~~ pollution  
14 prevention measures. The program shall be administered  
15 pursuant to administrative and expenditure criteria to be  
16 established by the Legislature.

17 (e) The manifest fees shall be deposited in the  
18 Hazardous Waste Control Account and be available for  
19 expenditure, upon appropriation by the Legislature.

20 SEC. 28. Section 25205.16 of the Health and Safety  
21 Code is amended to read:

22 25205.16. (a) (1) The department may impose an  
23 annual verification fee upon all generators, transporters,  
24 and facility operators with 50 or more employees that  
25 possess a valid identification number issued either by the  
26 department or by the Environmental Protection Agency.  
27 The fee charged shall be one hundred fifty dollars (\$150)  
28 for each generator, transporter, and facility operator with  
29 50 or more employees, but less than 75 employees; one  
30 hundred seventy-five dollars (\$175) for each generator,  
31 transporter, and facility operator with 75 or more  
32 employees, but less than 100 employees; two hundred  
33 dollars (\$200) for each generator, transporter, and facility  
34 operator with 100 or more employees, but less than 250  
35 employees; two hundred twenty-five dollars (\$225) for  
36 each generator, transporter, and facility operator with  
37 250 or more employees, but less than 500 employees; two  
38 hundred fifty dollars (\$250) for each generator,  
39 transporter, and facility operator with 500 or more  
40 employees. However, no generator, transporter, or

1 facility operator shall be assessed fees pursuant to this  
2 section that exceed, in total, five thousand dollars  
3 (\$5,000).

4 (2) The generator, transporter, or facility operator  
5 subject to the fee shall submit payment of the fee within  
6 30 days from the date of receiving a notice of assessment  
7 from the department. The notice shall be sent once  
8 during each fiscal year to each holder of a valid  
9 identification number. The fee imposed by this section  
10 shall be deposited in the Hazardous Waste Control  
11 Account and be available for expenditure, upon  
12 appropriation by the Legislature. For purposes of this  
13 section, “employee” shall have the same meaning set  
14 forth in Section 25205.6.

15 (b) The department shall establish an identification  
16 number certification system to biennially verify the  
17 accuracy of information related to generators,  
18 transporters, and facilities authorized to treat, store, or  
19 dispose of hazardous waste. However, if the number of  
20 identification numbers issued since the previous  
21 certification exceeds 20 percent of the active  
22 identification numbers, the department may implement  
23 an annual certification. The system shall include only  
24 verification of all of the following information:

25 (1) The name, mailing address, facsimile number,  
26 fictitious business name, federal employer number, State  
27 Board of Equalization identification number, SIC code,  
28 and phone number of the firm or organization engaged  
29 in hazardous waste activities.

30 (2) The name, mailing address, facsimile number, and  
31 phone number of the owner of the firm or organization.

32 (3) The name, title, mailing address, facsimile  
33 number, and phone number of a contact person for the  
34 firm or organization.

35 (4) The identification number assigned to the firm or  
36 organization.

37 (5) The site location address or description associated  
38 with the firm or organization’s identification number  
39 provided in paragraph (4).

1 (6) The number of employees of the firm or  
2 organization.

3 (7) If the firm or organization is a generator, a  
4 statement of whether the generator produces RCRA  
5 hazardous waste or non-RCRA hazardous waste.

6 (8) An identification of any of the following hazardous  
7 waste activities in which the firm or organization is  
8 engaged:

9 (A) Generation.

10 (B) Transportation.

11 (C) Onsite treatment, storage, or disposal.

12 (9) The waste codes associated with the four largest  
13 hazardous waste streams, by volume, of the firm or  
14 organization. The federal waste code shall be verified for  
15 RCRA hazardous waste and the California waste code  
16 shall be verified for non-RCRA hazardous waste.

17 (c) Any generator, transporter, and facility operator  
18 who fails to comply with this section, or who fails to  
19 provide information required by the department to  
20 verify the accuracy of hazardous waste activity data, shall  
21 be subject to suspension of any and all identification  
22 numbers assigned to the generator, transporter, or  
23 facility operator.

24 SEC. 29. Section 25205.18 of the Health and Safety  
25 Code is amended to read:

26 25205.18. (a) If a facility has a permit or an interim  
27 status document which sets forth the facility's allowable  
28 capacity for treatment or storage, the facility's size for  
29 purposes of the annual facility fee shall be based upon that  
30 capacity, except as provided in subdivision (d).

31 (b) If a facility's allowable capacity changes or is  
32 initially established as a result of a permit modification, or  
33 a submission of a certification pursuant to subdivision (d),  
34 the fee that is due for the reporting period in which the  
35 change occurs shall be the lower fee until December 31,  
36 1994. After that date, the fee that is due for the reporting  
37 period in which a change occurs shall be the higher fee.

38 (c) (1) The department may require the facility to  
39 submit an application to modify its permit to provide for  
40 an allowable capacity.

1 (2) Subdivisions (a) and (d) of Section 25205.7 do not  
2 apply to an application for modification required by the  
3 department pursuant to this subdivision.

4 (d) A facility may reduce its allowable capacity below  
5 the amounts specified in subdivision (a) or (c) by  
6 submitting a certification signed by the owner or  
7 operator in which the owner or operator pledges that the  
8 facility will not handle hazardous waste at a capacity  
9 above the amount specified in the certification. In that  
10 case, the facility's size for purposes of the annual facility  
11 fee shall be based upon the capacity specified in the  
12 certification, until the certification is withdrawn.  
13 Exceeding the capacity limits specified in a certification  
14 that has not been withdrawn shall be a violation of the  
15 hazardous waste control law and may subject a facility or  
16 its operator to a penalty and corrective action as provided  
17 in this chapter, including, but not limited to, an  
18 augmentation pursuant to Section 25191.1.

19 (e) This section shall have no bearing on the  
20 imposition of the annual postclosure facility fee.

21 SEC. 30. Section 25205.19 of the Health and Safety  
22 Code is amended to read:

23 25205.19. (a) If a facility has a permit or an interim  
24 status document which sets forth the facility's type,  
25 pursuant to Section 25205.1, as either treatment, storage,  
26 or disposal, the facility's type for purposes of the annual  
27 facility fee shall be rebuttably presumed to be what is set  
28 forth in that permit or document.

29 (b) If the facility's type changes as a result of a permit  
30 or interim status modification, any change in the annual  
31 facility fee shall be effective the reporting period  
32 following the one in which the modification becomes  
33 effective.

34 (c) (1) If the facility's permit or interim status  
35 document does not set forth its type, the department may  
36 require the facility to submit an application to modify the  
37 permit or interim status document to provide for a facility  
38 type.



(2) Subdivisions (a) and (d) of Section 25205.7 do not apply to an application for modification pursuant to this subdivision.

(d) A permit or interim status document may set forth more than one facility type or size. In accordance with subdivision (e) of Section 25205.4, the facility shall be subject only to the highest applicable fee.

SEC. 31. Article 9.2 (commencing with Section 25206.1) is added to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

Article 9.2. Cost Reimbursement

25206.1. For purposes of this article, the following terms have the following meaning:

(a) “Direct costs” means the costs to the department of processing applications, responding to requests, or providing other services, for which the applicant or requester is required to reimburse the department pursuant to those provisions specified in Section 25206.2, that can be specifically attributed to a particular cost objective, including, but not limited to, sites, facilities, and activities.

(b) “Indirect costs” means the costs to the department of activity that is of a common or joint purpose benefiting more than one cost objective and not readily assignable to a single cost objective.

(c) “Pro rata” means the general administrative costs expended by central service agencies to provide centralized services to state agencies, as defined in the State Administrative Manual.

25206.2. (a) Except as provided in subdivision (c), the department shall comply with this article when recovering costs for processing applications, responding to requests, or providing other services, for which the applicant or requester is required to reimburse the department for its costs pursuant to Sections 25149.3, 25179.7, 25200.1.5, 25201.9, 25205.7, 25222.1, 25233, and 25234. For purposes of this article and Sections 25149.3, 25179.7, 25200.1.5, 25201.9, 25205.7, 25222.1, 25233, and

1 25234, the department's costs include direct costs,  
2 indirect costs, and pro rata costs, as defined in Section  
3 25206.1.

4 (b) For the purposes of recovering the department's  
5 costs pursuant to those provisions listed in subdivision (a),  
6 the department shall establish and implement policies  
7 and procedures that include, but are not limited to, all of  
8 the following:

9 (1) Within 14 days following receipt of an application  
10 or request for which charges are to be assessed, or a later  
11 date as may be mutually agreed upon, the department  
12 and the applicant or requester shall hold a project  
13 planning meeting. Within 30 days from the date of the  
14 planning meeting, or within 30 days from the date that a  
15 complete application or request is received by the  
16 department, whichever is later, or by a later date  
17 mutually agreed upon, the department shall provide the  
18 applicant or requester an estimate that includes all of the  
19 following information:

20 (A) A detailed description of the work to be  
21 performed or services to be provided.

22 (B) The estimated billing rates for all classes of  
23 employees expected to work on the project. The  
24 department may adjust its billing rates not more than  
25 once every six months. Any adjustment in billing rates or  
26 other charges, including, but not limited to, pro rata costs  
27 and indirect costs, shall operate prospectively.

28 (C) An estimate of all expected charges to be billed to  
29 the applicant or requester, to the extent that the  
30 department can project its time and costs in advance. The  
31 department may adjust this estimate subsequent to  
32 commencement of the project based on analysis of new  
33 information that supports the adjustment, including, but  
34 not limited to, such circumstances as a change in the  
35 scope of the original work, additional work that is needed  
36 to ensure protection of human health or safety or of the  
37 environment, or other circumstances that arise that  
38 require substantially more time and effort than was  
39 originally anticipated to complete the work. An  
40 adjustment may only be made after providing written

1 notice and a detailed explanation of the change to the  
2 applicant or requester.

3 (2) The department shall adopt a billing system and  
4 procedures that include, but are not limited to, all of the  
5 following:

6 (A) Billing rate and indirect cost rate schedules by  
7 employee job classification.

8 (B) Standardized work task descriptions.

9 (C) Issuance of invoices at least quarterly, and to the  
10 extent practicable, within 60 days from the date of  
11 completion of work for which the charge is assessed.

12 (D) The inclusion of sufficient detail with each invoice  
13 so that the applicant or requester can relate the items on  
14 the invoice to the benefits received and to the estimate  
15 or charges provided pursuant to subparagraph (C) of  
16 paragraph (1). Invoices shall be supplemented with  
17 statements of any changes in rates and a detailed  
18 justification for any such changes.

19 (E) Upon request and within a reasonable time, not to  
20 exceed 30 working days to the extent practicable,  
21 providing the applicant or requester with access to time  
22 records and other materials supporting the invoice.

23 (F) The review of invoices for accuracy and  
24 appropriateness by a member of the department staff  
25 who has direct knowledge of the work or service  
26 performed.

27 (G) The mailing of invoices to the contact person  
28 identified by the applicant or requester.

29 (H) The development of policies and procedures for  
30 resolving disputes regarding charges billed pursuant to  
31 this section. The department shall ensure that the party  
32 responsible for resolving a dispute is not also responsible  
33 for, or performing, the work for which the charges are  
34 assessed. A person disputing an invoice shall notify the  
35 department in writing of the dispute and the reasons for  
36 the dispute within 45 days from the date of the invoice.

37 (I) The development of a concise statement of its cost  
38 reimbursement policies and billing procedures, and  
39 making those policies and procedures, the dispute  
40 resolution policies and procedures, and other program

1 guidance and policies readily available to any person  
2 requesting them.

3 (c) This article does not require amendment of, or  
4 otherwise affect, any agreement entered into prior to July  
5 1, 1998, pursuant to which any person has agreed to  
6 reimburse the department for the costs incurred by the  
7 department in processing applications, responding to  
8 requests, or otherwise providing other services pursuant  
9 to those provisions listed in subdivision (a).

10 25206.3. The department shall take all of the following  
11 actions with regard to the tracking of indirect costs:

12 (a) Ensure that pro rata costs are allocated  
13 appropriately to all departmental activities, so that the  
14 department's program will only bear those pro rata costs  
15 in proportion to the benefits received by those persons  
16 subject to the reimbursement requirements specified in  
17 Section 25206.2.

18 (b) Routinely include operating expenses in the  
19 indirect costs and allocate those expenses using processes  
20 that ensure that the department's program only bears  
21 indirect costs in proportion to the benefits received by  
22 those persons subject to the reimbursement  
23 requirements specified in Section 25206.2.

24 (c) Exclude from indirect costs, the costs of grant  
25 development and administration, fee administration,  
26 contract development and administration, and public  
27 and governmental inquiries.

28 25206.4. The department shall establish rates for  
29 indirect costs that are specific to each program and shall  
30 review and update the indirect cost rates based upon  
31 increases or decreases in the amounts of grants received  
32 by the department, department reorganizations, and  
33 other relevant factors, but not less than once every six  
34 months, based upon the previous 12 months of  
35 expenditure data. The department shall apply the  
36 indirect cost rates prospectively and shall not make  
37 retroactive adjustments in those rates.

38 SEC. 32. Section 25207.12 of the Health and Safety  
39 Code is amended to read:



1 25207.12. (a) Any eligible participant who submits  
2 banned, unregistered, or outdated agricultural wastes for  
3 collection in a program established pursuant to this article  
4 is exempt from the fees and reimbursements required by  
5 Sections 25174.1, 25205.2, 25205.5, and 25205.7, with  
6 regard to the wastes submitted for collection.

7 (b) An eligible participant who submits banned,  
8 unregistered, or outdated agricultural wastes for  
9 collection is exempt from the hazardous waste facilities  
10 permit requirements of Section 25201 with regard to the  
11 management of the wastes submitted for collection.

12 (c) A county operating a collection program in  
13 compliance with this article shall not be held liable in any  
14 cost recovery action brought pursuant to Section 25360  
15 for any hazardous waste which has been properly  
16 handled and transported to an authorized hazardous  
17 waste treatment or disposal facility, in compliance with  
18 this chapter, at a location other than that of the collection  
19 program.

20 SEC. 33. Section 25209.7 of the Health and Safety  
21 Code is amended to read:

22 25209.7. (a) Every owner or operator of a land  
23 treatment unit subject to this article shall pay an annual  
24 fee to the department which shall be equivalent to 2  
25 percent of the land disposal fee due under Section  
26 25205.4. This fee shall be in addition to the annual  
27 hazardous waste facility fee and shall be due at the same  
28 time as the facility fee.

29 (b) The department may, by regulation, increase or  
30 decrease the amount of the fees specified in subdivision  
31 (a) if the department finds that the amounts charged do  
32 not reflect the cost of providing services under this  
33 article.

34 SEC. 34. Section 25221 of the Health and Safety Code  
35 is amended to read:

36 25221. (a) Any person as owner, lessor, or lessee who  
37 (1) knows, or has probable cause to believe, that a  
38 significant disposal of hazardous waste has occurred on,  
39 under, or into the land which he or she owns or leases or  
40 that the land is within 2,000 feet of a significant disposal

1 of hazardous waste, and (2) intends to construct or allow  
2 the construction on that land of a building or structure to  
3 be used for a purpose which is described in subdivision  
4 (b) of Section 25232 within one year, shall apply to the  
5 department prior to construction for a determination as  
6 to whether the land should be designated a hazardous  
7 waste property or a border zone property pursuant to  
8 Section 25229.

9 The addition of rooms or living space to an existing  
10 single-family dwelling or other minor repairs or  
11 improvements to residential property which do not  
12 change the use of the property or increase the population  
13 density does not constitute the construction of a building  
14 or structure for purposes of this subdivision.

15 (b) Any person who, as owner, lessor, or lessee, knows  
16 or has probable cause to believe that land which he or she  
17 owns or leases is a hazardous waste property or a border  
18 zone property, may apply to the department for a  
19 determination as to whether the land should be  
20 designated a hazardous waste property or a border zone  
21 property pursuant to Section 25229.

22 (c) If a city or county knows or has probable cause to  
23 believe that any land within its jurisdiction is a hazardous  
24 waste property or a border zone property, the city or  
25 county may apply to the department for a determination  
26 as to whether that land should be designated a hazardous  
27 waste property or a border zone property pursuant to  
28 Section 25229.

29 (d) Subdivisions (a), (b), and (c) do not apply to any  
30 land on which a determination has previously been made  
31 pursuant to Section 25222.1 or 25229, unless either of the  
32 following has occurred since that determination:

33 (1) A significant new disposal of hazardous waste has  
34 occurred on, under, or into the land.

35 (2) Significant new information about past disposal of  
36 hazardous waste on, or within 2,000 feet of, the land  
37 becomes known to the owner, lessor, or lessee of the land  
38 or to the city or county.

39 SEC. 35. Section 25324 of the Health and Safety Code  
40 is amended to read:

1 25324. “State account” means the Toxic Substances  
2 Control Account established pursuant to Section 25173.6,  
3 except that in Section 25334 and Article 7.5 (commencing  
4 with Section 25385), “state account” means the  
5 Hazardous Substance Account established pursuant to  
6 Section 25330. Notwithstanding any other provision of  
7 this section, any costs incurred and payable from the  
8 Hazardous Substance Account, the Hazardous Waste  
9 Control Account, or the Site Remediation Account prior  
10 to July 1, 1998, to implement the provisions of this chapter  
11 or Chapter 6.85 (commencing with Section 25396), shall  
12 be recoverable from the liable person or persons pursuant  
13 to Section 25360 as if the costs were incurred and payable  
14 from the state account.

15 SEC. 36. Section 25330 of the Health and Safety Code  
16 is amended to read:

17 25330. There is in the General Fund the Hazardous  
18 Substance Account which shall be administered by the  
19 director. In addition to any other money appropriated by  
20 the Legislature to the Hazardous Substance Account, the  
21 following amounts shall be deposited in the Hazardous  
22 Substance Account:

23 (a) Any interest earned on money deposited in the  
24 Hazardous Substance Account.

25 (b) Any money transferred from the state account  
26 pursuant to Section 25173.6 or 25336.

27 SEC. 36.5. Section 25330.4 of the Health and Safety  
28 Code is amended to read:

29 25330.4. (a) Notwithstanding any other provisions of  
30 law, the Controller shall establish a separate subaccount  
31 in the state account, for any funds received from a  
32 settlement agreement or the General Fund for a removal  
33 or remedial action to be performed at a specific site.

34 (b) Notwithstanding Section 13340 of the  
35 Government Code, funds deposited in the subaccount for  
36 those removal or remedial actions are hereby  
37 continuously appropriated to the department for  
38 removal or remedial action at the specific site, and for  
39 administrative costs associated with the removal or  
40 remedial action at the specific site.

(c) Notwithstanding any other provision of law, money in the subaccount for those removal or remedial actions shall not revert to the General Fund or be transferred to any other fund or account in the State Treasury, except for purposes of investment as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code.

(d) Notwithstanding Section 16305.7 of the Government Code, all interest or other increment resulting from investment of the funds specified in subdivision (a) pursuant to Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code shall be deposited in the subaccount for removal or remedial action at the specific sites.

(e) At the conclusion of all removal or remedial actions at the specific site, any unexpended funds in any subaccounts established pursuant to this section shall be transferred to the subaccount for site operation and maintenance established pursuant to section 25330.5, if necessary, for those activities at the site, or, if not needed for site operation and maintenance at the site, to the Toxic Substances Control Account.

SEC. 37. Section 25336 of the Health and Safety Code is amended to read:

25336. There shall be deposited in the Hazardous Substance Account any money transferred, upon appropriation by the Legislature, from the state account. Those moneys may be expended for repayment of principal of, and interest on, bonds sold pursuant to Article 7.5 (commencing with Section 25385), and for all other purposes for which the Hazardous Substance Account or the state account may be used pursuant to Article 7.5 (commencing with Section 25385).

SEC. 38. Section 25337 of the Health and Safety Code is amended to read:

25337. (a) There is in the General Fund the Site Remediation Account which shall be administered by the director. The Site Remediation Account shall be funded by money transferred from the state account, upon

1 appropriation by the Legislature. Consistent with the  
2 requirements of Section 114(c) of the federal act (42  
3 U.S.C. Sec. 9614(c)), the moneys in the Site Remediation  
4 Account may be expended by the department, upon  
5 appropriation by the Legislature, for direct site  
6 remediation costs.

7 (b) (1) For purposes of this section, “direct site  
8 remediation costs” means payments to contractors for  
9 investigations, characterizations, removal, remediation,  
10 or long-term operation and maintenance at sites  
11 contaminated or suspected of contamination by  
12 hazardous materials, where those actions are authorized  
13 pursuant to this chapter.

14 (2) “Direct site remediation costs” also means the  
15 state-mandated share pursuant to Section 204(c)(3) of  
16 the federal act (42 U.S.C. Sec. 9604(c)(3)).

17 (3) “Direct site remediation costs” does not include  
18 the department’s administrative expenses or the  
19 department’s expenses for staff to perform oversight of  
20 investigations, characterizations, removals, remediations,  
21 or long-term operation and maintenance.

22 SEC. 39. Section 25340 of the Health and Safety Code  
23 is repealed.

24 SEC. 40. Section 25341 of the Health and Safety Code  
25 is repealed.

26 SEC. 41. Section 25343 of the Health and Safety Code  
27 is amended to read:

28 25343. (a) Except as provided in subdivisions (b)  
29 and (c), any potentially responsible party at a site, or any  
30 person who has notified the department of that person’s  
31 intent to undertake removal or remediation at a site, shall  
32 reimburse the department, pursuant to Chapter 6.66  
33 (commencing with Section 25269), for the costs incurred  
34 by the department for its oversight of any preliminary  
35 endangerment assessment at that site.

36 (b) This section does not apply to any notice of intent  
37 submitted to the department prior to July 1, 1998. Any  
38 person who submitted such a notice shall pay the fee, if  
39 not already paid, as required by this section as it read on  
40 December 31, 1997, unless the department and that

1 person mutually agree to enter into a reimbursement  
2 agreement in lieu of any unpaid portion of the required  
3 fee.

4 (c) The changes made in this section by the act adding  
5 this subdivision do not require amendment of, or  
6 otherwise affect, any agreement entered into prior to July  
7 1, 1998, pursuant to which any person has agreed to  
8 reimburse the department for the costs incurred by the  
9 department for its oversight of a preliminary  
10 endangerment assessment.

11 SEC. 42. Section 25345 of the Health and Safety Code  
12 is repealed.

13 SEC. 43. Section 25351 of the Health and Safety Code  
14 is repealed.

15 SEC. 44. Section 25351.1 of the Health and Safety  
16 Code is amended to read:

17 25351.1. Notwithstanding Section 13340 of the  
18 Government Code, there is hereby transferred annually  
19 from the Hazardous Substance Account to the Hazardous  
20 Substance Clearing Account, and appropriated  
21 therefrom, an amount of not more than five million  
22 dollars (\$5,000,000) which is required to pay the principal  
23 of, and interest on, bonds sold pursuant to Article 7.5  
24 (commencing with Section 25385) to the extent that the  
25 funds in the Hazardous Substance Clearing Account and  
26 the Superfund Bond Trust Fund are insufficient to pay  
27 the principal of, and interest on, these bonds.

28 SEC. 45. Section 25354.5 of the Health and Safety  
29 Code is amended to read:

30 25354.5. (a) Any state or local law enforcement  
31 officer or investigator or other law enforcement agency  
32 employee who, in the course of an official investigation or  
33 enforcement action with regard to any illegal controlled  
34 substance manufacturing operation, comes in contact  
35 with, or is aware of, the presence at the site of a substance  
36 that the person suspects is a hazardous substance, shall  
37 notify the department for the purpose of securing a  
38 contractor to identify, clean up, store, and dispose of the  
39 suspected hazardous substance, as necessary, except for  
40 samples required to be kept for evidentiary purposes.



1 (b) Notwithstanding any other provision of law, for  
2 any hazardous substance that is an illegal controlled  
3 substance, a precursor of a controlled substance, or a  
4 material intended to be used in the unlawful manufacture  
5 of controlled substances, upon notice that the hazardous  
6 substance requires a removal action, the department  
7 shall take removal action with respect to that hazardous  
8 substance. The department may expend funds  
9 appropriated from the Illegal Drug Lab Cleanup Account  
10 created pursuant to subdivision (e) to pay the costs of  
11 removal actions required by this section.

12 (c) (1) For purposes of Chapter 6.5 (commencing  
13 with Section 25100) or this chapter, any person who is  
14 found to have operated a site for the purpose of  
15 manufacturing an illegal controlled substance or a  
16 precursor of an illegal controlled substance is the  
17 generator of any hazardous substance at, or released  
18 from, the site that is subject to removal action pursuant  
19 to this section.

20 (2) During the removal action, for purposes of  
21 complying with the manifest requirements in Section  
22 25160, the department, the county health department, or  
23 their designee may sign the hazardous waste manifest as  
24 the generator of the hazardous waste. In carrying out that  
25 action, the department, the county health department, or  
26 their designee shall be considered to have acted in  
27 furtherance of their statutory responsibilities to protect  
28 the public health and safety and the environment from  
29 the release of hazardous substances, and the department,  
30 the county health department, or their designee are not  
31 responsible parties for the release or threatened release  
32 of the hazardous substances.

33 (3) The officer, investigator, or agency employee  
34 specified in subdivision (a) is not a responsible party for  
35 the release or threatened release of any hazardous  
36 substances at, or released from, the site.

37 (d) The department may adopt regulations to  
38 implement this section in consultation with appropriate  
39 law enforcement agencies.

(e) The Illegal Drug Lab Cleanup Account is hereby created in the General Fund and the department may expend any money in the account, upon appropriation by the Legislature, to carry out the removal actions required by this section. The account shall be funded by moneys appropriated directly from the General Fund.

(f) The responsibilities assigned to the department by the act adding this subdivision apply only to the extent that sufficient funding is made available for that purpose.

SEC. 46. Section 25360 of the Health and Safety Code is amended to read:

25360. (a) Any costs incurred and payable from the state account, the Site Remediation Account, or the Hazardous Substance Cleanup Fund shall be recoverable by the Attorney General, upon the request of the department, from the liable person or persons. The amount of any remedial or removal action costs that may be recovered pursuant to this section shall include interest on any amount paid from the Hazardous Substance Cleanup Fund calculated at a rate equal to the interest rate of the bonds sold pursuant to Article 7.5 (commencing with Section 25385) and interest on any amount paid from the state account or the Site Remediation Account, calculated at the rate of return earned on investment in the Surplus Money Investment Fund pursuant to Section 16475 of the Government Code.

(b) A person who is liable for costs incurred at a site, which are payable from the state account, the Site Remediation Account, or the Hazardous Substance Cleanup Fund, shall have the liability reduced by any reimbursements that were actually paid by that person pursuant to this chapter in connection with that site, including any reimbursements paid pursuant to Section 25343.

(c) The amount of cost determined pursuant to this section shall be recoverable at the discretion of the department, either in a separate action or by way of intervention as of right in an action for contribution or indemnity. Nothing in this section deprives a party of any defense that the party may have.



1 (d) Money recovered by the Attorney General  
2 pursuant to this section shall be deposited in the state  
3 account, except that, if the costs incurred were paid from  
4 the Hazardous Substance Cleanup Fund, the Attorney  
5 General shall deposit the amounts recovered into the  
6 Hazardous Substance Clearing Account. Money  
7 deposited in the Hazardous Substance Clearing Account  
8 pursuant to this section are available to pay the principal  
9 of, and interest on, bonds sold pursuant to Article 7.5  
10 (commencing with Section 25385).

11 *SEC. 46.5. Section 25395 of the Health and Safety*  
12 *Code is amended to read:*

13 25395. (a) Except as provided in subdivisions (b),  
14 (c), and (d), this chapter shall remain in effect only until  
15 ~~July January 1, 1998~~ 1999, and as of that date is repealed,  
16 unless a later enacted statute, which is enacted before  
17 ~~July January 1, 1998~~ 1999, deletes or extends that date.

18 (b) On ~~July January 1, 1998~~ 1999, the Department of  
19 Finance shall submit a report to the Secretary of State  
20 ~~which~~ that states whether the principal of, and interest  
21 on, the bonds sold pursuant to Article 7.5 (commencing  
22 with Section 25385) have been paid and the General  
23 Fund has been reimbursed for any and all amounts that  
24 were expended therefrom to pay the principal of, and  
25 interest on, those bonds. If the report states that the bonds  
26 have not been paid and the General Fund has not been  
27 reimbursed, then, notwithstanding subdivision (a),  
28 Article 1 (commencing with Section 25300), Article 2  
29 (commencing with Section 25310), Article 3  
30 (commencing with Section 25330), Article 4  
31 (commencing with Section 25340), Article 6  
32 (commencing with Section 25360), Article 7.5  
33 (commencing with Section 25385), and this article, shall  
34 not be repealed and shall remain in effect until the date  
35 specified in subdivision (c).

36 (c) If the articles specified in subdivision (b) remain  
37 in effect after ~~July January 1, 1998~~ 1999, pursuant to  
38 subdivision (b), on the date when the principal of, and  
39 interest on, the bonds sold pursuant to Article 7.5  
40 (commencing with Section 25385) have been paid and

1 the General Fund has been reimbursed for any and all  
2 amounts that were expended therefrom to pay the  
3 principal of, and interest on, those bonds, the  
4 Department of Finance shall submit a report to the  
5 Secretary of State containing that information. The  
6 articles specified in subdivision (b) shall be repealed on  
7 the date ~~when~~ that *the* report is submitted.

8 (d) Section 25364.6 shall not be repealed, except as  
9 provided in subdivision (j) of that section.

10 SEC. 47. Section 25404.5 of the Health and Safety  
11 Code is amended to read:

12 25404.5. (a) (1) Each certified unified program  
13 agency shall institute a single fee system, which shall  
14 replace the fees levied pursuant to Sections 25201.14 and  
15 25205.14, and which shall also replace any fees levied by  
16 a local agency pursuant to Sections 25143.10, 25287, 25513,  
17 and 25535.2, or any other fee levied by a local agency  
18 specifically to fund the implementation of the provisions  
19 specified in subdivision (c) of Section 25404.  
20 Notwithstanding Sections 25143.10, 25201.14, 25205.14,  
21 25287, 25513, and 25535.2, a person who complies with the  
22 certified unified program agency's "single fee system"  
23 fee shall not be required to pay any fee levied pursuant  
24 to those sections.

25 (2) The governing body of the certified unified  
26 program agency shall establish the amount to be paid by  
27 each person regulated by the unified program under the  
28 single fee system at a level sufficient to pay the necessary  
29 and reasonable costs incurred by the certified unified  
30 program agency and by any participating agency  
31 pursuant to the requirements of subparagraph (E) of  
32 paragraph (1) of subdivision (d) of Section 25404.3.

33 (3) The fee system may also be designed to recover the  
34 necessary and reasonable costs incurred by the certified  
35 unified program agency, or a participating agency  
36 pursuant to the requirements of subparagraph (E) of  
37 paragraph (1) of subdivision (d) of Section 25404.3, in  
38 administering provisions other than those specified in  
39 subdivision (c) of Section 25404, if the implementation  
40 and enforcement of those provisions has been

1 incorporated as part of the unified program by the  
2 certified unified program agency pursuant to subdivision  
3 (b) of Section 25404.2, and if the single fee system  
4 replaces any fees levied as of January 1, 1994, to fund the  
5 implementation of those additional provisions.

6 (4) The amount to be paid by a person regulated by  
7 the unified program may be adjusted to account for the  
8 differing costs of administering the unified program with  
9 respect to that person's regulated activities.

10 (b) Except as provided in subdivision (d), the single  
11 fee system instituted by each certified unified program  
12 agency shall include an assessment on each person  
13 regulated by the unified program of a surcharge, the  
14 amount of which shall be determined by the secretary  
15 annually, to cover the necessary and reasonable costs of  
16 the Office of Emergency Services, the State Fire Marshal,  
17 and the State Water Resources Control Board in carrying  
18 out their responsibilities under this chapter. The  
19 secretary may adjust the amount of the surcharge to be  
20 collected by different certified unified program agencies  
21 to reflect the different costs incurred by the Office of  
22 Emergency Services, the State Fire Marshal, and the  
23 State Water Resources Control Board in supervising the  
24 implementation of the unified program in different  
25 jurisdictions, and in supervising the implementation of  
26 the unified program in those jurisdictions for which the  
27 secretary has waived the assessment of the surcharge  
28 pursuant to subdivision (d). The certified unified  
29 program agency may itemize the amount of the  
30 surcharge on any bill, invoice, or return which the agency  
31 sends to a person regulated by the unified program. Each  
32 certified unified program agency shall transmit all  
33 surcharge revenues collected to the secretary on a  
34 quarterly basis. The surcharge shall be deposited in the  
35 Unified Program Account, which is hereby created in the  
36 General Fund and which may be expended, upon  
37 appropriation by the Legislature, by the Office of  
38 Emergency Services, the State Fire Marshal, and the  
39 State Water Resources Control Board for the purposes of  
40 implementing this chapter.

1 (c) Each certified unified program agency and the  
2 secretary shall, before the institution of the single fee  
3 system and the assessment of the surcharge, implement  
4 a fee accountability program designed to encourage  
5 more efficient and cost-effective operation of the  
6 program for which the single fee and surcharge are  
7 assessed. The fee accountability programs shall include  
8 those elements of the requirements of the plan adopted  
9 pursuant to Section 25206 which the secretary determines  
10 are appropriate.

11 (d) The secretary may waive the requirement for a  
12 county to assess a surcharge pursuant to subdivision (b),  
13 if both of the following conditions apply:

14 (1) The county meets all of the following conditions:

15 (A) The county submits an application to the secretary  
16 for certification on or before January 1, 1996, that  
17 incorporates all of the requirements of this chapter, and  
18 includes the county's request for a waiver of the  
19 surcharge, and contains documentation that  
20 demonstrates, to the satisfaction of the secretary, both of  
21 the following:

22 (i) That the assessment of the surcharge will impose a  
23 significant economic burden on most businesses within  
24 the county.

25 (ii) That the combined dollar amount of the surcharge  
26 and the single fee system to be assessed by the county  
27 pursuant to subdivision (a) exceeds the combined dollar  
28 amount of all existing fees that are replaced by the single  
29 fee system for most businesses within the county.

30 (B) The application for certification, including the  
31 information required by subparagraph (A), is  
32 determined by the secretary to be complete, on or before  
33 April 30, 1996. The secretary, for good cause, may grant  
34 an extension of that deadline of up to 90 days.

35 (C) The county is certified by the secretary on or  
36 before December 31, 1996.

37 (D) On or before January 1, 1994, the county  
38 completed the consolidation of the administration of the  
39 hazardous waste generator program, the hazardous  
40 materials release response plans and inventories

1 program, and the underground storage tank program,  
2 referenced in paragraphs (1), (3), and (4) of subdivision  
3 (c) of Section 25404, into a single program within the  
4 county's jurisdiction.

5 (E) The county demonstrates that it will consolidate  
6 the administration of all programs specified in subdivision  
7 (c) of Section 25404, and that it will also consolidate the  
8 administration of at least one additional program which  
9 regulates hazardous waste, hazardous substances, or  
10 hazardous materials, as specified in subdivision (d) of  
11 Section 25404.2, other than the programs specified in  
12 subdivision (c) of Section 25404, into a single program to  
13 be administered by a single agency in the county's  
14 jurisdiction at the time the county's certification by the  
15 secretary becomes effective.

16 (2) The secretary makes all of the following findings:

17 (A) The county meets all of the criteria specified in  
18 paragraph (1).

19 (B) The assessment of the surcharge would impose a  
20 significant economic burden on most businesses within  
21 the county.

22 (C) The combined dollar amount of the surcharge and  
23 the single fee system to be assessed by the county  
24 pursuant to subdivision (a) would exceed the combined  
25 dollar amount of all existing fees that are replaced by the  
26 single fee system for most businesses within the county.

27 (D) The waiver of the surcharge for those counties  
28 applying for and qualifying for a waiver, and the resulting  
29 increase in the surcharge for other counties, would not,  
30 when considered cumulatively, impose a significant  
31 economic burden on businesses in any other county  
32 which does not apply for, or does not meet the criteria for,  
33 a waiver of the surcharge.

34 (e) The secretary shall review all of the requests for a  
35 waiver of the surcharge made pursuant to subdivision (d)  
36 simultaneously, so as to adequately assess the cumulative  
37 impact of granting the requested waivers on businesses in  
38 those counties that have not applied, or do not qualify, for  
39 a waiver, and shall grant or deny all requests for a waiver  
40 of the surcharge within 30 days from the date that the

1 secretary certifies all counties applying, and qualifying,  
2 for a waiver. If the secretary finds that the grant of a  
3 waiver of the surcharge for all counties applying and  
4 qualifying for the waiver will impose a significant  
5 economic burden on businesses in one or more other  
6 counties, the secretary shall take either of the following  
7 actions:

8 (1) Deny all of the applications for a waiver of the  
9 surcharge.

10 (2) Approve only a portion of the waiver requests for  
11 counties meeting the criteria set forth in subdivision (d),  
12 to the extent that the approved waivers, when taken as  
13 a whole, meet the condition specified in subparagraph  
14 (D) of paragraph (2) of subdivision (d). In determining  
15 which of the counties' waiver requests to grant, the  
16 secretary shall consider all of the following factors:

17 (A) The relative degree to which the assessment of the  
18 surcharge will impose a significant economic burden on  
19 most businesses within each county applying and  
20 qualifying for a waiver.

21 (B) The relative degree to which the combined dollar  
22 amount of the surcharge and the single fee system to be  
23 assessed, pursuant to subdivision (a), by each county  
24 applying and qualifying for a waiver exceeds the  
25 combined dollar amount of all existing fees which are  
26 replaced by the single fee system for most businesses  
27 within the county.

28 (C) The relative extent to which each county applying  
29 and qualifying for a waiver has incorporated, or will  
30 incorporate, upon certification, additional programs  
31 pursuant to subdivision (d) of Section 25404.2, into the  
32 unified program within the county's jurisdiction.

33 (f) The secretary may, at any time, terminate a  
34 county's waiver of the surcharge granted pursuant to  
35 subdivisions (d) and (e) if the secretary determines that  
36 the criteria specified in subdivision (d) for the grant of a  
37 waiver are no longer met.

38 SEC. 47.5. Section 25404.5 of the Health and Safety  
39 Code is amended to read:



1 25404.5. (a) (1) Each certified unified program  
2 agency shall institute a single fee system, which shall  
3 replace the fees levied pursuant to Sections 25201.14 and  
4 25205.14, except for transportable treatment units  
5 permitted under Section 25200.2, and which shall also  
6 replace any fees levied by a local agency pursuant to  
7 Sections 25143.10, 25287, 25513, and 25535.2, or any other  
8 fee levied by a local agency specifically to fund the  
9 implementation of the provisions specified in subdivision  
10 (c) of Section 25404. Notwithstanding Sections 25143.10,  
11 25201.14, 25205.14, 25287, 25513, and 25535.2, a person who  
12 complies with the certified unified program agency's  
13 "single fee system" fee shall not be required to pay any  
14 fee levied pursuant to those sections, except for  
15 transportable treatment units permitted under Section  
16 25200.2.

17 (2) The governing body of the certified unified  
18 program agency shall establish the amount to be paid by  
19 each person regulated by the unified program under the  
20 single fee system at a level sufficient to pay the necessary  
21 and reasonable costs incurred by the certified unified  
22 program agency and by any participating agency  
23 pursuant to the requirements of subparagraph (E) of  
24 paragraph (1) of subdivision (d) of Section 25404.3.

25 (3) The fee system may also be designed to recover the  
26 necessary and reasonable costs incurred by the certified  
27 unified program agency, or a participating agency  
28 pursuant to the requirements of subparagraph (E) of  
29 paragraph (1) of subdivision (d) of Section 25404.3, in  
30 administering provisions other than those specified in  
31 subdivision (c) of Section 25404, if the implementation  
32 and enforcement of those provisions has been  
33 incorporated as part of the unified program by the  
34 certified unified program agency pursuant to subdivision  
35 (b) of Section 25404.2, and if the single fee system  
36 replaces any fees levied as of January 1, 1994, to fund the  
37 implementation of those additional provisions.

38 (4) The amount to be paid by a person regulated by  
39 the unified program may be adjusted to account for the

1 differing costs of administering the unified program with  
2 respect to that person's regulated activities.

3 (b) Except as provided in subdivision (d), the single  
4 fee system instituted by each certified unified program  
5 agency shall include an assessment on each person  
6 regulated by the unified program of a surcharge, the  
7 amount of which shall be determined by the secretary  
8 annually, to cover the necessary and reasonable costs of  
9 the Office of Emergency Services, the State Fire Marshal,  
10 and the State Water Resources Control Board in carrying  
11 out their responsibilities under this chapter. The  
12 secretary may adjust the amount of the surcharge to be  
13 collected by different certified unified program agencies  
14 to reflect the different costs incurred by the Office of  
15 Emergency Services, the State Fire Marshal, and the  
16 State Water Resources Control Board in supervising the  
17 implementation of the unified program in different  
18 jurisdictions, and in supervising the implementation of  
19 the unified program in those jurisdictions for which the  
20 secretary has waived the assessment of the surcharge  
21 pursuant to subdivision (d). The certified unified  
22 program agency may itemize the amount of the  
23 surcharge on any bill, invoice, or return that the agency  
24 sends to a person regulated by the unified program. Each  
25 certified unified program agency shall transmit all  
26 surcharge revenues collected to the secretary on a  
27 quarterly basis. The surcharge shall be deposited in the  
28 Unified Program Account, which is hereby created in the  
29 General Fund and which may be expended, upon  
30 appropriation by the Legislature, by the Office of  
31 Emergency Services, the State Fire Marshal, and the  
32 State Water Resources Control Board for the purposes of  
33 implementing this chapter.

34 (c) Each certified unified program agency and the  
35 secretary shall, before the institution of the single fee  
36 system and the assessment of the surcharge, implement  
37 a fee accountability program designed to encourage  
38 more efficient and cost-effective operation of the  
39 program for which the single fee and surcharge are  
40 assessed. The fee accountability programs shall include



1 those elements of the requirements of the plan adopted  
2 pursuant to Section 25206 that the secretary determines  
3 are appropriate.

4 (d) The secretary may waive the requirement for a  
5 county to assess a surcharge pursuant to subdivision (b),  
6 if both of the following conditions apply:

7 (1) The county meets all of the following conditions:

8 (A) The county submits an application to the secretary  
9 for certification on or before January 1, 1996, that  
10 incorporates all of the requirements of this chapter, and  
11 includes the county's request for a waiver of the  
12 surcharge, and contains documentation that  
13 demonstrates, to the satisfaction of the secretary, both of  
14 the following:

15 (i) That the assessment of the surcharge will impose a  
16 significant economic burden on most businesses within  
17 the county.

18 (ii) That the combined dollar amount of the surcharge  
19 and the single fee system to be assessed by the county  
20 pursuant to subdivision (a) exceeds the combined dollar  
21 amount of all existing fees that are replaced by the single  
22 fee system for most businesses within the county.

23 (B) The application for certification, including the  
24 information required by subparagraph (A), is  
25 determined by the secretary to be complete, on or before  
26 April 30, 1996. The secretary, for good cause, may grant  
27 an extension of that deadline of up to 90 days.

28 (C) The county is certified by the secretary on or  
29 before December 31, 1996.

30 (D) On or before January 1, 1994, the county  
31 completed the consolidation of the administration of the  
32 hazardous waste generator program, the hazardous  
33 materials release response plans and inventories  
34 program, and the underground storage tank program,  
35 referenced in paragraphs (1), (3), and (4) of subdivision  
36 (c) of Section 25404, into a single program within the  
37 county's jurisdiction.

38 (E) The county demonstrates that it will consolidate  
39 the administration of all programs specified in subdivision  
40 (c) of Section 25404, and that it will also consolidate the

1 administration of at least one additional program that  
2 regulates hazardous waste, hazardous substances, or  
3 hazardous materials, as specified in subdivision (d) of  
4 Section 25404.2, other than the programs specified in  
5 subdivision (c) of Section 25404, into a single program to  
6 be administered by a single agency in the county's  
7 jurisdiction at the time that the county's certification by  
8 the secretary becomes effective.

9 (2) The secretary makes all of the following findings:

10 (A) The county meets all of the criteria specified in  
11 paragraph (1).

12 (B) The assessment of the surcharge would impose a  
13 significant economic burden on most businesses within  
14 the county.

15 (C) The combined dollar amount of the surcharge and  
16 the single fee system to be assessed by the county  
17 pursuant to subdivision (a) would exceed the combined  
18 dollar amount of all existing fees that are replaced by the  
19 single fee system for most businesses within the county.

20 (D) The waiver of the surcharge for those counties  
21 applying for and qualifying for a waiver, and the resulting  
22 increase in the surcharge for other counties, would not,  
23 when considered cumulatively, impose a significant  
24 economic burden on businesses in any other county that  
25 does not apply for, or does not meet the criteria for, a  
26 waiver of the surcharge.

27 (e) The secretary shall review all of the requests for a  
28 waiver of the surcharge made pursuant to subdivision (d)  
29 simultaneously, so as to adequately assess the cumulative  
30 impact of granting the requested waivers on businesses in  
31 those counties that have not applied, or do not qualify, for  
32 a waiver, and shall grant or deny all requests for a waiver  
33 of the surcharge within 30 days from the date that the  
34 secretary certifies all counties applying, and qualifying,  
35 for a waiver. If the secretary finds that the grant of a  
36 waiver of the surcharge for all counties applying and  
37 qualifying for the waiver will impose a significant  
38 economic burden on businesses in one or more other  
39 counties, the secretary shall take either of the following  
40 actions:



1 (1) Deny all of the applications for a waiver of the  
2 surcharge.

3 (2) Approve only a portion of the waiver requests for  
4 counties meeting the criteria set forth in subdivision (d),  
5 to the extent that the approved waivers, when taken as  
6 a whole, meet the condition specified in subparagraph  
7 (D) of paragraph (2) of subdivision (d). In determining  
8 which of the counties' waiver requests to grant, the  
9 secretary shall consider all of the following factors:

10 (A) The relative degree to which the assessment of the  
11 surcharge will impose a significant economic burden on  
12 most businesses within each county applying and  
13 qualifying for a waiver.

14 (B) The relative degree to which the combined dollar  
15 amount of the surcharge and the single fee system to be  
16 assessed, pursuant to subdivision (a), by each county  
17 applying and qualifying for a waiver exceeds the  
18 combined dollar amount of all existing fees that are  
19 replaced by the single fee system for most businesses  
20 within the county.

21 (C) The relative extent to which each county applying  
22 and qualifying for a waiver has incorporated, or will  
23 incorporate, upon certification, additional programs  
24 pursuant to subdivision (d) of Section 25404.2, into the  
25 unified program within the county's jurisdiction.

26 (f) The secretary may, at any time, terminate a  
27 county's waiver of the surcharge granted pursuant to  
28 subdivisions (d) and (e) if the secretary determines that  
29 the criteria specified in subdivision (d) for the grant of a  
30 waiver are no longer met.

31 SEC. 48. Section 25416 of the Health and Safety Code  
32 is amended to read:

33 25416. (a) All studies and community information  
34 programs conducted pursuant to this section shall be  
35 done only if either subdivision (b) applies or if funds are  
36 available without restructuring the department's funding  
37 priorities. The department shall conduct these studies  
38 and information programs in the following manner:

39 (1) The department shall, except as provided in  
40 subdivision (b), and in conjunction with the local health

1 officer, the State Department of Health Services, and the  
2 Office of Environmental Health Hazard Assessment,  
3 conduct or contract for epidemiological studies to  
4 identify and monitor health effects related to exposure to  
5 hazardous materials, as defined in Section 66084 of Title  
6 22 of the California Code of Regulations. A study may be  
7 conducted in any area of the state identified by the  
8 department or the local health officer as a site of potential  
9 exposure to hazardous materials, including, but not  
10 limited to, any of the following areas:

11 (A) All communities located near hazardous waste  
12 disposal facilities.

13 (B) In all communities containing hazardous  
14 substance release sites listed pursuant to Section 25356 or  
15 listed pursuant to the Comprehensive Environmental  
16 Response, Compensation, and Liability Act of 1980 (42  
17 U.S.C. Sec. 9601 et seq.).

18 (C) In all areas around the location of major  
19 generators of hazardous waste.

20 (D) In all other areas identified by local health officers  
21 or the State Department of Health Services as possible  
22 locations of public exposure to hazardous materials.

23 (2) The department, in consultation with the State  
24 Department of Health Services and the Office of  
25 Environmental Health Hazard Assessment, shall  
26 determine which epidemiological studies are to be  
27 conducted pursuant to this section based on the potential  
28 for public exposure to hazardous materials. Studies in  
29 areas near Class I hazardous waste disposal facilities, as  
30 defined in Section 2531 of Title 23 of the California Code  
31 of Regulations, shall be given the highest priority for  
32 funding. If a hearing is conducted pursuant to Section  
33 25149 and the hearing officer determines that there is a  
34 significant potential for endangerment to the public as a  
35 result of the suspected or actual release of a hazardous  
36 material, the department shall give priority to  
37 conducting an epidemiological study for that facility.

38 (3) If a local health officer determines that a study  
39 should be conducted pursuant to this section because of  
40 a potential public exposure to hazardous materials, the

1 local health officer may request that the department  
2 initiate or contract for a study pursuant to this section by  
3 demonstrating to the department that there is sufficient  
4 evidence that justifies the need for a study. The  
5 department shall respond to the local health officer's  
6 request within 90 days.

7 (4) A local health officer may contract with qualified  
8 persons or firms to produce the epidemiological studies  
9 specified in paragraph (1).

10 (5) The design and methodology of any study  
11 conducted pursuant to this section shall be reviewed and  
12 approved by the department, the State Department of  
13 Health Services, and the Office of Environmental Health  
14 Hazard Assessment prior to the initiation of the study.

15 (6) In any county in which hazardous waste disposal  
16 facilities are located and in all other counties in which the  
17 State Department of Health Services identifies  
18 significant actual or potential public exposure to  
19 hazardous materials, the department shall, in conjunction  
20 with the local health officer, conduct or contract for a  
21 community information program with respect to sites of  
22 potential exposure to hazardous materials identified  
23 under paragraph (1) to do all of the following:

24 (A) Organize and conduct educational programs for  
25 local physicians and other health professionals on the  
26 effects of exposure to hazardous materials and reporting  
27 requirements.

28 (B) Disseminate information to high risk populations  
29 on the health effects of exposure to hazardous materials.

30 (C) Conduct public forums on the health effects of  
31 exposure to hazardous substances and methods of  
32 limiting exposure.

33 (7) Paragraph (6) does not apply to hazardous  
34 substance release sites listed on the National Priorities  
35 List for which the Environmental Protection Agency has  
36 assumed lead responsibility for community relations.

37 (b) If a county is authorized to impose a license tax  
38 pursuant to Section 25149.5 for revenue purposes, the  
39 department may require the county to provide funding  
40 for carrying out epidemiological studies or the

1 community information program concerning the  
2 hazardous waste facility subject to the license tax. The  
3 department shall provide the county with technical  
4 assistance to conduct an epidemiological study pursuant  
5 to this subdivision. The department may exempt a county  
6 from the requirements of this subdivision if the county  
7 demonstrates to the department that the revenue  
8 potential from the facility would not be adequate to  
9 conduct an epidemiological study or community  
10 information program. When considering a county  
11 request for an exemption, the department shall consider  
12 the regulatory costs and responsibilities of the county  
13 related to that facility.

14 (c) The department shall expend funds from the Toxic  
15 Substances Control Account, upon appropriation by the  
16 Legislature, to conduct studies and community  
17 information programs in counties containing a hazardous  
18 substance release site listed pursuant to Section 25356.  
19 The department shall expend funds from the Hazardous  
20 Waste Control Account, upon appropriation by the  
21 Legislature, to conduct all other studies and community  
22 information programs conducted pursuant to this section,  
23 except as provided in subdivision (b).

24 SEC. 49. Section 43053 of the Revenue and Taxation  
25 Code is amended to read:

26 43053. The fees imposed pursuant to Sections 25205.2,  
27 25205.5, 25205.7, and 25205.14 of the Health and Safety  
28 Code shall be administered and collected by the board in  
29 accordance with this part.

30 SEC. 50. Section 43054 of the Revenue and Taxation  
31 Code is amended to read:

32 43054. The fees imposed pursuant to Section 25205.6  
33 of the Health and Safety Code shall be administered and  
34 collected by the board in accordance with this part.

35 SEC. 51. Section 43055 of the Revenue and Taxation  
36 Code is repealed.

37 SEC. 52. Section 43101 of the Revenue and Taxation  
38 Code is amended to read:

39 43101. Every person, as defined in Section 25118 of the  
40 Health and Safety Code, who is subject to the fees



1 specified in subdivision (a) of Section 25173.6 of the  
2 Health and Safety Code, subdivision (a) of Section 25174  
3 of the Health and Safety Code, Section 105190 of the  
4 Health and Safety Code, or Section 25205.14 of the Health  
5 and Safety Code shall register with the board on forms  
6 provided by the board.

7 *SEC. 52.5. Section 43152.16 is added to the Revenue*  
8 *and Taxation Code, to read:*

9 *43152.16. (a) The board shall issue refunds, if*  
10 *directed to do so by the department, upon making the*  
11 *certification specified in subdivision (d), for some, or all,*  
12 *of the fees imposed pursuant to Sections 25205.5 and*  
13 *25205.9 of the Health and Safety Code, for hazardous*  
14 *waste generated in 1997.*

15 *(b) The board may issue a refund only to a generator*  
16 *who received a credit pursuant to Section 43152.7 or*  
17 *43152.11 for fees paid for hazardous waste generated in*  
18 *1996.*

19 *(c) The refund made to a generator pursuant to this*  
20 *section shall not exceed the generator's credit for*  
21 *hazardous waste generated in 1996, or exceed the*  
22 *generator's fee paid to a certified unified program agency*  
23 *in 1997, whichever amount is less.*

24 *(d) The board may issue refunds pursuant to this*  
25 *section only if the department certifies that funds for*  
26 *these refunds are available.*

27 *SEC. 53. (a) The Legislature hereby finds and*  
28 *declares all of the following:*

29 *(1) Section 25385.8 of the Health and Safety Code*  
30 *requires that five million dollars (\$5,000,000) be*  
31 *transferred annually from the Hazardous Substance*  
32 *Account to the Superfund Bond Trust Fund to be held in*  
33 *reserve and provides that money deposited in the*  
34 *Hazardous Substance Clearing Account may be used only*  
35 *to pay the principal of, and interest on, the bonds issued*  
36 *and sold pursuant to Article 7.5 (commencing with*  
37 *Section 25285) of Chapter 6.8 of Division 20 of the Health*  
38 *and Safety Code.*

39 *(2) Notwithstanding Section 25358.8 of the Health and*  
40 *Safety Code, Item 4260-016-826 of the Budget Act of 1991*

1 (Chapter 118 of the Statutes of 1991) directed the  
2 Controller, upon approval of the Department of Finance,  
3 to transfer not less than twenty million dollars  
4 (\$20,000,000) from the Superfund Bond Trust Fund to the  
5 General Fund to balance the budget for the 1991–92 fiscal  
6 year. In accordance with the Budget Act of 1991, the  
7 Controller transferred twenty million dollars  
8 (\$20,000,000) from the Superfund Bond Trust Fund to the  
9 General Fund on June 2, 1992.

10 (3) The transfer of funds described in paragraph (2)  
11 will cause a shortfall in funds needed to repay the  
12 principal of, and interest on, the bonds issued and sold  
13 pursuant to Article 7.5 (commencing with Section 25385)  
14 of Chapter 6.8 of Division 20 of the Health and Safety  
15 Code beginning with the 1998–99 fiscal year. Because of  
16 the impending shortfall, the Legislature finds that the  
17 General Fund should reimburse the Superfund Bond  
18 Trust Fund for the money transferred pursuant to Item  
19 4260-016-826 of the Budget Act of 1991, plus interest at the  
20 applicable State Surplus Money Investment Fund  
21 interest rate, for all periods during which the General  
22 Fund had use of the funds and until the Superfund Bond  
23 Trust Fund is fully reimbursed.

24 (b) The following amounts shall be transferred from  
25 the General Fund to the Superfund Bond Trust Fund to  
26 pay the principal of, and interest on, the bonds issued and  
27 sold pursuant to Article 7.5 (commencing with Section  
28 25285) of Chapter 6.8 of Division 20 of the Health and  
29 Safety Code, in accordance with the following schedule:

30 (1) Three million five hundred thousand dollars  
31 (\$3,500,000) shall be transferred from the General Fund  
32 to the Superfund Bond Trust Fund on or before August  
33 1, 2000.

34 (2) Three million three hundred thousand dollars  
35 (\$3,300,000) shall be transferred from the General Fund  
36 to the Superfund Bond Trust Fund on or before August  
37 1, 2001.

38 (3) Three million one hundred thousand dollars  
39 (\$3,100,000) shall be transferred from the General Fund





1 to the Superfund Bond Trust Fund on or before August  
2 1, 2002.

3 (4) Two million nine hundred thousand dollars  
4 (\$2,900,000) shall be transferred from the General Fund  
5 to the Superfund Bond Trust fund on or before August 1,  
6 2003.

7 (5) The amount needed to repay the remainder of the  
8 funds transferred pursuant to Item 4260-016-826 of the  
9 Budget Act of 1991, plus all interest accrued since the date  
10 that the transfer took place, shall be transferred from the  
11 General Fund to the Superfund Bond Trust Fund on or  
12 before August 1, 2004.

13 SEC. 54. (a) Except as otherwise provided in this  
14 section, Sections 1 to 10, inclusive, Sections 13 to 18,  
15 inclusive, Sections 22, 23, and 25, and Sections 28 to 53,  
16 inclusive, of this act shall become operative July 1, 1998.

17 (b) The amendments to Sections ~~25174.2, 25174.6,~~  
18 ~~25205.4, 25205.5, 25205.6, 25205.14, and 25205.15~~ of the  
19 Health and Safety Code made by Sections ~~11, 12,~~ 19, 20,  
20 21, 26, and 27 of this act shall become operative January  
21 1, 1998. The repeal of ~~Section~~ Sections 25174.2, 25174.6,  
22 and 25205.9 of the Health and Safety Code by ~~Section~~  
23 Sections 11, 12, and 24 of this act shall become operative  
24 January 1, 1998. *The addition of Section 25174.6 to the*  
25 *Health and Safety Code made by Section 12.3 of this act*  
26 *shall become on operative January 1, 1998.*

27 ~~(c) (1) The amendments to Sections 25174.2 and~~  
28 ~~25174.6 of the Health and Safety Code made by Sections~~  
29 ~~11 and 12 of this act~~

30 *(c) The addition of Sections 25174.2 and 25174.6 to the*  
31 *Health and Safety Code made by Sections 11.5 and 12.5,*  
32 *respectively, of this act shall become operative on January*  
33 *1, 2001.*

34 *(d) (1) Sections 25174.2 and 25174.6, as added to the*  
35 *Health and Safety Code by Sections 11.5 and 12.5,*  
36 *respectively, of this act, shall initially apply to the disposal*  
37 *fee for January 1998- 2001. Section 25174.6, as added to the*  
38 *Health and Safety Code by Section 12.3 of this act, shall*  
39 *apply to the disposal fees for calendar years commencing*  
40 *January 1, 1998, January 1, 1999, and January 1, 2000.*

~~(2) For purposes of this subdivision, “the disposal fee for January 1998” means the fee that is due and payable to the State Board of Equalization by April 30, 1998;~~

*(2) For the purposes of this subdivision, the disposal fee for January of any year means the fee that is due and payable to the State Board of Equalization by April 30 of that year pursuant to Section 43151 of the Revenue and Taxation Code.*

~~(d)~~

*(e) (1) The amendments to Section 25205.4 of the Health and Safety Code made by Section 19 of this act shall initially apply to the annual facility fee for 1998.*

~~(2) For purposes of this subdivision “the annual facility fee for 1998” means the fee that is due and payable by February 28, 1999, pursuant to Section 43152.6 of the Revenue and Taxation Code, including all prepayments that are due during 1998.~~

~~(e)~~

*(2) For the purposes of this subdivision, the annual facility fee for any year means the fee that is due and payable by February 28 of the following year, pursuant to Section 43152.6 of the Revenue and Taxation Code, including all prepayments that are due during that year.*

*(f) (1) The changes in the annual fees specified in Section 25205.14 of the Health and Safety Code made by Section 26 of this act shall initially apply to the annual fee for 1998.*

*(2) For purposes of this subdivision “the annual fee for 1998” means the fee that is due and payable by February 28, 1999, pursuant to Section 43152.6 of the Revenue and Taxation Code, including all prepayments that are due during 1998.*

~~(f)~~

*(g) (1) The amendments to Section 25205.5 of the Health and Safety Code made by Section 20 of this act and the repeal of Section 25205.9 of the Health and Safety Code made by Section 24 of this act shall initially apply to the generator fee and the surcharge for 1998.*

*(2) For purposes of this subdivision, “the generator fee and the surcharge for 1998” means the fee and surcharge*

1 that are due and payable by February 28, 1999, pursuant  
2 to Sections 43152.7 and 43152.11 of the Revenue and  
3 Taxation Code, including all prepayments that are due  
4 during 1998.

5 ~~(g)~~—

6 (h) (1) The amendments to Section 25205.6 of the  
7 Health and Safety Code made by Section 21 of this act  
8 shall initially apply to the environmental fee for 1998.

9 (2) For purposes of this subdivision “the  
10 environmental fee for 1998” means the fee that is due and  
11 payable by February 28, 1999, pursuant to Section 43152.9  
12 of the Revenue and Taxation Code.

13 ~~(h)~~—

14 (i) On July 1, 1998, any assets, obligations, and  
15 encumbrances of the Site Remediation Account shall  
16 automatically be transferred to the Toxic Substances  
17 Control Account in the General Fund.

18 SEC. 55. The calculation of the surcharge, described  
19 in subdivision (b) of Section 25404.5 of the Health and  
20 Safety Code, to be assessed for the 1998–99 fiscal year and  
21 for subsequent fiscal years shall reflect the changes in  
22 Section 25404.5 of the Health and Safety Code made by  
23 Section 47 of this act.

24 SEC. 56. Section 2.5 of this bill incorporates  
25 amendments to Section 25143 of the Health and Safety  
26 Code proposed by both this bill and Assembly Bill 1157.  
27 It shall only become operative if (1) both bills are enacted  
28 and become effective on or before January 1, 1998, (2)  
29 each bill amends Section 25143 of the Health and Safety  
30 Code, and (3) this bill is enacted after AB 1157, in which  
31 case Section 25143 of the Health and Safety Code, as  
32 amended by AB 1157, shall remain operative only until  
33 the operative date of this bill, at which time Section 2.5 of  
34 this bill shall become operative, and Section 2 of this bill  
35 shall not become operative.

36 SEC. 57. Section 47.5 of this bill incorporates  
37 amendments to Section 25404.5 of the Health and Safety  
38 Code proposed by both this bill and Assembly Bill 1357.  
39 It shall only become operative if (1) both bills are enacted  
40 and become effective on or before January 1, 1998, (2)

1 each bill amends Section 25404.5 of the Health and Safety  
2 Code, and (3) this bill is enacted after AB 1357, in which  
3 case Section 25404.5 of the Health and Safety Code, as  
4 amended by AB 1357, shall remain operative only until  
5 the operative date of this bill, at which time Section 47.5  
6 of this bill shall become operative, and Section 47 of this  
7 bill shall not become operative.

8 SEC. 58. The Legislature hereby finds and declares  
9 that the amendments to Section 25192 of the Health and  
10 Safety Code made by Section 15 of this act furthers the  
11 purposes of the Safe Drinking Water and Toxic  
12 Enforcement Act of 1986 (Proposition 65), as enacted by  
13 the voters on the November 4, 1986, general election.

14 SEC. 59. No reimbursement is required by this act  
15 pursuant to Section 6 of Article XIII B of the California  
16 Constitution because the only costs that may be incurred  
17 by a local agency or school district will be incurred  
18 because this act creates a new crime or infraction,  
19 eliminates a crime or infraction, or changes the penalty  
20 for a crime or infraction, within the meaning of Section  
21 17556 of the Government Code, or changes the definition  
22 of a crime within the meaning of Section 6 of Article  
23 XIII B of the California Constitution.

24 Notwithstanding Section 17580 of the Government  
25 Code, unless otherwise specified, the provisions of this act  
26 shall become operative on the same date that the act  
27 takes effect pursuant to the California Constitution.

